

THE DEPARTMENT OF STATE

PAPERS RELATING TO THE
FOREIGN RELATIONS
OF THE UNITED STATES

1920

(IN THREE VOLUMES)

VOLUME II



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CONTENTS

	Page
LIST OF PAPERS	IX
 CUBA:	
Political affairs	1
Amendment of the electoral law carried by the Conservatives; failure of the United States to dissuade President Menocal from approving the amendment—Agitation by the Liberals to induce supervision of the elections by the United States—Concern of the United States over pre-election disorders—President Menocal's statement, October 28, 1920, assuring the Cuban people a fair election—Delay by the Cuban authorities in announcing the results of the election—Appointment of General Crowder on special mission to Cuba. . .	1
Financial affairs	44
Financial stringency and heavy withdrawals from the banks—Moratorium decreed by President Menocal—Views and recommendations of the United States—Mr. Albert Rathbone retained by the Cuban Government as adviser in negotiations for a loan—Report by Mr. Rathbone to President Menocal.	44
Cable concessions to the Commercial Cable Company of Cuba, the Western Union Telegraph Company, and the All America Cables, Incorporated.	58
Rice importations.	70
Refusal by Cuban importers to accept American shipments of rice at purchase prices; representations to the Cuban Government—President Menocal's decree of September 6, 1920, restricting and regulating importations; dissatisfaction of the United States—President Menocal's new decree, November 19, 1920.	70
McGivney and Rokeby Construction Company's contract of June 23, 1908; proposal by the United States for arbitration of disputes between the Company and the Cuban Government, March 25, 1919; direct settlement of the disputes and termination of contract. . .	83
 CZECHOSLOVAKIA:	
The Teschen dispute with Poland. (<i>See</i> volume I, General.)	
 DOMINICAN REPUBLIC:	
Political and economic affairs	110
Progress of reforms under the Military Government—Decision by the United States to initiate measures for withdrawal from the Government of the Republic; proclamation of December 23, 1920—Political and economic embarrassments of the Military Governor . . .	110
Censorship.	160
Relaxation of the censorship—Trial of journalists for offenses against regulations—Executive orders of the Military Governor, December 6, 1920, defining and prohibiting defamation and sedition; objections by the Department of State to the Executive orders and the concurrence of the Navy Department in their annulment.	160
Boundary dispute with Haiti. (<i>See</i> volume I, General.)	

ECUADOR:	Page
Financial affairs	174
Project for an Italian loan of 40,000,000 sucres to Ecuador—Plan for refunding the Ecuadoran foreign debt by banks in the United States	174
Affairs of the Guayaquil and Quito Railway	191
Resumption, on March 6, 1920, of daily deposits for the service of the railway bonds but in insufficient sums—Concern of the American Government over the Ecuadoran Government's delay in remitting the accumulated deposits	191
Cacao trade	206
Efforts to sustain the credit of the Cacao Association—Measures urged upon the Government of Ecuador by the Government of the United States	206
Petroleum legislation of October 18, 1919, and November 25, 1920 . . .	213
EGYPT:	
Proposal by Great Britain to reconstitute the Mixed Courts and to transfer to them the jurisdiction exercised by the consular courts—Invitation to the Government of the United States to make nominations to fill a vacancy in the Mixed Court of Appeal	216
ETHIOPIA:	
Treaty of June 27, 1914, with the United States	229
Negotiation and signature of a treaty of commerce at Addis Ababa—Notification to Prince Lidj Yassou, December 20, 1914, of ratification by the United States—Proclamation of the treaty by President Wilson, August 9, 1920	229
Grant of petroleum rights to the Anglo-American Oil Company, Limited, under the Baghdassarian concession in western Harrar	245
FINLAND:	
Termination of hostilities with Russia	253
Inquiries from the Government of Finland regarding the policy of the United States toward Russian attacks on Finland—Decision by the United States to refrain from offering advice to the Government of Finland—Conclusion of peace between Finland and Russia	253
GERMANY:	
Continuation in force of the armistice between the United States and Germany	258
Relations of the American Commissioner with the German authorities; German desire for representation at Washington	258
German protest against the nomination by the United States of an arbitrator for river shipping	263
Protest of the Associated Governments against German import and export regulations	273
Occupation of the Rhineland by the Allied and Associated Powers . . .	289
Report of the American Observer on the Rhineland High Commission—Dispatch of additional troops by Germany into the Ruhr Basin—French occupation of Darmstadt and Frankfurt; attitude of the American, British, Italian, and Belgian Governments—Appointment of General Allen as American observer—Use by France of African troops in the Rhineland—Discussions regarding payment of expenses of armies of occupation—Attitude of the Associated Governments toward provocative speeches by members of the German Cabinet in occupied territory—Proposed reduction of the American Army of Occupation	289

GERMANY—Continued.

	Page
Unofficial representation of the United States on the Reparation Commission	346
Negotiations relating to German reparations	353
Problems arising under articles 235 and 260 of the Treaty of Versailles—The question of the sale to the Netherlands of ships built in Germany—Relation of the Reparation Commission to the Conference of Ambassadors—Discussions regarding determination of the amount of Germany's liability—The Spa Conference—Attitude of the United States toward the percentage agreement and the coal protocol—Evaluation of German ships allocated to Great Britain—Proposed conference at Geneva—Meeting of technical experts at Brussels; decision of the United States not to be represented . . .	353
Deliveries of German dyestuffs and chemicals under the Treaty of Versailles	445
Policies of the Associated Governments—Appointment of a dye expert for the United States—Allied agreement of September 15, 1919—Distribution of dyes among the Associated Powers—Statement on February 10, 1920, of American views on the delivery and distribution of dyestuffs and chemical drugs—Arrangements between the Department of State and the Textile Alliance	445
Status of German ships taken over during the war by the United States and Latin American countries	507
Disposition of the United States to support the claims of Brazil, Cuba, and Uruguay to German ships if made under the Wilson-Lloyd George Agreement, May 1919—Claim of the United States to title to German ships taken in its own harbors—Purchase from Peru of a former German ship by the United States Shipping Board . . .	507
Tank ships of the Deutsch-Amerikanische Petroleum Gesellschaft . .	542
Claim by the Standard Oil Company of New Jersey to beneficial ownership—Provisional exemption of the tankers from allocation among the Associated Powers; cancelation of the exemption by the Supreme Council—Refusal by the United States Shipping Board to release the <i>Imperator</i> and seven other German ships pending a decision on the tankers; release of the eight German ships—Proposals for a provisional allocation of the tankers—Agreement of June 7, 1920, between the Reparation Commission and the United States	542
GREAT BRITAIN:	
Release of American goods seized by Great Britain during the war . .	601
Preliminary negotiations between the consul general at London and the British Procurator General—American proposals of December 13, 1917, July 12, 1918, and August 28, 1919—British consent to release in "proper" cases—American reservations regarding the Order in Council of March 11, 1915—Report of the Secretary of State to the President, March 3, 1921	601
Claim against the United States arising out of the delay in delivering the <i>Imperator</i> and other ex-German ships; proposal of the United States for concurrent examination of American claims against Great Britain	648

GREAT BRITAIN—Continued.	Page
Exploitation of petroleum in Palestine and Mesopotamia	649
Representations by the United States on behalf of existing American interests in Palestine—San Remo Agreement, April 24, 1920—Exposition by the Government of the United States of its views on the obligations of the British Government as mandatory to apply the principle of equal treatment to the nationals of the United States	649
Consular jurisdiction in Palestine: refusal by the United States to acquiesce in the jurisdiction of the local British courts over American citizens	675
The Anglo-Japanese Alliance: representations by the United States Government to the British Government regarding a possible renewal of the Alliance	679
Employment of British cable ships in illegal attempt by the Western Union Telegraph Company to land cables on Florida coast	686
Refusal by the United States Government to grant the Western Union Telegraph Company permission to land a cable at Miami from Barbados—Efforts by the British authorities to deter British cable ships from attempting to land the Company's cable on the Florida coast	686
American allegations of interference with cablegrams passing through Great Britain	699
Fisheries (Canada). (<i>See</i> volume I, Canada.)	
GREECE:	
Recall of King Constantine	705
Defeat of Venizelos at the polls, and plebiscite calling for the return of King Constantine—Question of the recognition of King Constantine by the United States	705
Notice given by the Greek Government of the denunciation of the treaty of 1837 with the United States; notice withdrawn—Agreement amending article XVII of the treaty	710
GUATEMALA:	
Fall of the Estrada Cabrera government	718
Revolutionary agitation against President Estrada Cabrera—Efforts by the United States to allay factional discord—Request from both factions for mediation by the diplomatic corps—Proclamation of reforms issued by the President on the advice of the United States Government—Outbreak of factional hostilities, and resignation of the President—Inauguration of the Herrera government and its recognition by the United States	718
Treatment of formerly German-owned property	755
Denunciation by Guatemala of the Convention of August 20, 1910, concerning the protection of trade marks. (<i>See</i> volume I, General.)	
Boundary dispute with Honduras. (<i>See</i> volume I, General.)	

CONTENTS

VII

HAITI:	Page
Execution of the treaty of September 16, 1915, and supplementary agreements	760
Reports from the Minister in Haiti and the Financial Adviser charging failure of the Haitian Government to observe the terms of the agreement of August 24, 1918—Complaints by the Haitian Government alleging arbitrary interference by the American treaty officials—Suspension of the salaries of the Haitian President and high officers of state by order of the American Minister—Insistence by the United States upon cooperation in legislation—Withdrawal of the order suspending salaries	760
Financial affairs	816
Proposed modifications in the charter of the new National Bank; reluctance of the Haitian Government to accept the modifications .	816
Execution of the Contract of Retrait, April 12, 1919: insistence by the United States that the Haitian Government give effect to article 15 restricting the importation and exportation of non-Haitian currency	826
Correspondence with the British and French Governments regarding the organization and powers of the Claims Commission provided for by the protocol of October 3, 1919, between the United States and Haiti	827
Financial arrangements looking toward the service of the public debt .	837
Negotiations with the Haitian Government regarding the flotation of a loan	845
Boundary dispute with the Dominican Republic. (<i>See</i> volume I, General.)	
HONDURAS:	
Revolutionary disorders on the frontiers of Honduras: representations by the United States deprecating the toleration of revolutionary activities against neighboring states	854
Appointment of Arthur N. Young as Financial Adviser to the Government of Honduras	872
Treatment of formerly German-owned property	878
Boundary dispute with Guatemala. (<i>See</i> volume I, General.)	
Conference at Amapala between the Presidents of Honduras and Nicaragua—Agreement of November 17, 1920. (<i>See</i> volume I, General.)	
INDEX	881

CUBA

POLITICAL AFFAIRS—Continued

Date and number	Subject	Page
1920		
Mar. 30 (59)	<i>To the Minister in Cuba (tel.)</i> Instructions to indicate to President Department's disapproval of undue haste in signing amendments, and anxiety to prevent further tinkering with electoral laws.	9
Mar. 31 (60)	<i>To the Minister in Cuba (tel.)</i> Statement of U. S. policy (text printed) opposing withdrawal of any political party from participation in elections.	9
Apr. 2 (64)	<i>From the Minister in Cuba</i> Supplementary memorandum of Desvernine (text printed) describing amendments, in addition to that of art. 120, as preserving integrity of Crowder laws.	10
Apr. 13 (58)	<i>To the Minister in Cuba</i> Instructions to call attention of Liberal Party to disapproval of withholding vote because of U. S. refusal to supervise elections.	12
May 23 (117)	<i>From the Chargé in Cuba (tel.)</i> Conservatives' nomination of Rafael Montalvo as Presidential candidate.	12
May 27 (119)	<i>From the Chargé in Cuba (tel.)</i> Recognition by General Electoral Board of Partido Popular Cubano of Alfredo Zayas as a national party.	13
June 4 (107)	<i>To the Chargé in Cuba</i> Note (text printed) to be made public by President Menocal declining to supervise elections as requested by Liberals, in view of assurances of fair elections, and pointing out remedies under election law for investigation of charges of fraud.	13
July 12 (147)	<i>From the Chargé in Cuba (tel.)</i> Nomination by Liberal National Committee of José Miguel Gomez for President.	15
July 17 (114)	<i>To the Chargé in Cuba (tel.)</i> Minister Céspedes' suggestion of public statement given out by Menocal embodying points made in Department's instructions of June 4.	15
July 23 (160)	<i>From the Chargé in Cuba (tel.)</i> Probability of public statement being made as suggested in Department's 114, July 17.	15
Aug. 12 (157)	<i>To the Chargé in Cuba</i> Recommendation of Aug. 29 as date upon which President Menocal should publish statement as suggested by Céspedes.	16
Aug. 25 (166)	<i>To the Chargé in Cuba</i> Instructions to publish Department's June 4 should President fail to make public its purport.	16
Aug. 25 (167)	<i>To the Chargé in Cuba</i> Instructions to issue statement (text printed) as supplementary to no. 166 of Aug. 25, further portraying U. S. impartiality and desire for fairness in approaching elections.	17

CUBA
POLITICAL AFFAIRS—Continued

Date and number	Subject	Page
1920		
Aug. 26 (143)	<i>To the Chargé in Cuba (tel.)</i> Instructions to urge upon President importance of making public the purport of Department's June 4 and thereafter to issue to press statement on U. S. position with respect to approaching elections.	18
Aug. 27 (194)	<i>From the Chargé in Cuba (tel.)</i> Nomination of Zayas as coalition candidate. Report that Liberals will send commission to Washington to ask for election supervision or nonintervention in case of revolution.	19
Aug. 30 (197)	<i>From the Chargé in Cuba (tel.)</i> Publication of statement by President in form suggested by Céspedes. Confidential statement of U. S. views on necessity for all parties going to polls.	19
Aug. 30 (148)	<i>To the Chargé in Cuba (tel.)</i> Disapproval of sending commission of Liberals to Washington.	20
Sept. 16 (400)	<i>From the Minister in Cuba</i> Interview with President regarding coming elections and U. S. suggestion for presence of General Crowder as observer thereat.	21
Sept. 19 (216)	<i>From the Minister in Cuba (tel.)</i> Request for increase in marines for protection and for intelligence duty, to be centrally located at Camaguey.	22
Sept. 23 (167)	<i>To the Minister in Cuba (tel.)</i> Refusal to supply officers from Marine Corps for intelligence duty. Inquiry as to basis of request for additional protective troops.	23
Sept. 25 (227)	<i>From the Minister in Cuba (tel.)</i> Necessity for additional marines at Camaguey during election period to protect U. S. sugar interests.	23
Sept. 27 (171)	<i>To the Minister in Cuba (tel.)</i> Instructions to discuss with President advisability of increasing Cuban or U. S. forces at Camaguey.	23
Sept. 27 (228)	<i>From the Minister in Cuba (tel.)</i> Upholding by Supreme Court of Zayas as legal Presidential candidate of Conservative Party.	24
Oct. 1 (426)	<i>From the Minister in Cuba</i> President's belief that additional marines are unnecessary, and reluctance to consent to augmentation unless quietly done.	24
Oct. 5 (428)	<i>From the Minister in Cuba</i> Appointment of military supervisors to supersede police chiefs in certain municipalities; Liberal charge that such acts constitute intervention by National Government for political advantage.	25
Oct. 11 (187)	<i>To the Minister in Cuba (tel.)</i> Request for Minister's personal views and those of owners of plantations regarding need for additional marines during elections.	27

CUBA

POLITICAL AFFAIRS—Continued

Date and number	Subject	Page
1920 Oct. 13 (241)	<i>From the Minister in Cuba (tel.)</i> Recommendations for additional marines at Camaguey.	27
Oct. 20 (212)	<i>To the Minister in Cuba</i> Instructions to request of President assurances that election returns will be published as received and that public announcement to that effect will be made.	28
Oct. 20 (196)	<i>To the Minister in Cuba (tel.)</i> President Wilson's opinion that additional marines or warships sent to Cuba at this time would be inadvisable.	29
Oct. 22 (202)	<i>To the Minister in Cuba (tel.)</i> Recommendation for measures to prevent voters being fraudulently deprived of cards of identity and for issue of circular instructions by President Menocal urging strict impartiality on part of military supervisors during elections.	29
Oct. 25 (207)	<i>To the Minister in Cuba (tel.)</i> Instructions to urge President to issue further proclamation detailing procedure in elections and innovations under the new law.	30
Oct. 26 (490)	<i>From the Minister in Cuba</i> President's willingness to issue statement recommending fair play in elections; defense of appointment of military supervisors and comments on traffic in cards of identity.	33
Oct. 29 (505)	<i>From the Minister in Cuba</i> Statement issued by President to Cuban people (text printed) in regard to coming elections, in accordance with U. S. suggestions.	34
Nov. 10 (535)	<i>From the Minister in Cuba</i> Preliminary information regarding tardy election returns and number of electoral colleges which have failed to report.	38
Nov. 11	<i>From the Minister in Cuba (tel.)</i> Resolutions passed by executive committee of Liberal Party (text printed) charging unlawful methods in elections and announcing decision to present case in Washington.	39
Nov. 17 (239)	<i>To the Minister in Cuba (tel.)</i> Refusal to receive Liberal commission since responsibility for fair elections rests with Government and people of Cuba.	40
Dec. 31	<i>To the Judge Advocate General, War Department</i> Appointment as President Wilson's personal representative on special mission to Cuba. Instructions on electoral and financial situation.	41
Dec. 31 (276)	<i>To the Minister in Cuba (tel.)</i> Information that Crowder will depart for Cuba as President Wilson's personal representative on special mission. Instructions to inform President Menocal and arrange for early interview.	43

CUBA

FINANCIAL AFFAIRS

FINANCIAL STRINGENCY AND HEAVY WITHDRAWALS FROM THE BANKS—MORATORIUM DECREED BY PRESIDENT MENOCAL—VIEWS AND RECOMMENDATIONS OF THE UNITED STATES—MR. ALBERT RATHBONE RETAINED BY THE CUBAN GOVERNMENT AS ADVISER IN NEGOTIATIONS FOR A LOAN—REPORT BY MR. RATHBONE TO PRESIDENT MENOCAL

Date and number	Subject	Page
1920		
Oct. 10	<i>From the Minister in Cuba (tel.)</i> Suspension of payments by Banco International; heavy runs on other banks; proposed moratorium to relieve financial stringency.	44
Oct. 12 (449)	<i>From the Minister in Cuba</i> Executive decree no. 1583, Oct. 10, 1920, establishing a bank moratorium (text printed).	44
Nov. 22 (246)	<i>To the Minister in Cuba (tel.)</i> Views regarding cause of financial stringency, statement of opposition to moratorium, and recommendations regarding sound currency and sugar market, for presentation to President.	47
Dec. 10	<i>To the Minister in Cuba</i> Instructions to facilitate work of Rathbone, retained by Cuba as adviser in connection with proposed loan to be floated in the United States.	49
Dec. 10 (342)	<i>From the Minister in Cuba (tel.)</i> Submission to Cuban Congress of Dolz bill designed to effect economic restoration.	49
Dec. 14 (266)	<i>To the Minister in Cuba (tel.)</i> Instructions to notify Rathbone and President Menocal of U. S. opinion that Dolz bill is unsound and would make loan impossible.	50
Dec. 17 (631)	<i>From the Minister in Cuba</i> President's defense of Dolz bill as based on plan proposed by bankers, and request for Rathbone to submit recommendations for substitute measures to be taken.	50
Dec. 21 (645)	<i>From the Minister in Cuba</i> Rathbone's report to President Menocal (text printed) regarding economic situation, with recommendations for solution of difficulties.	52

CABLE CONCESSIONS TO THE COMMERCIAL CABLE COMPANY OF CUBA, THE WESTERN UNION TELEGRAPH COMPANY, AND THE ALL AMERICA CABLES, INCORPORATED

1920		
Mar. 19 (39)	<i>To the Minister in Cuba</i> Instructions to support application of Commercial Cable Co. of Cuba to land Miami-Habana cable at latter city.	58
June 3 (166)	<i>From the Chargé in Cuba</i> Information that desired permission has been granted Commercial Cable Co. of Cuba.	58
June 3 (89)	<i>To the Chargé in Cuba (tel.)</i> Instructions to lend assistance to representative of All America Cables.	59

CUBA

CABLE CONCESSIONS, ETC.—Continued

Date and number	Subject	Page
1920		
June 19 (202)	<i>From the Chargé in Cuba</i> Interview with Secretary of Interior, who seems inclined to accede to projects of All America Cables.	59
July 8 (106)	<i>To the Chargé in Cuba (tel.)</i> Inquiry regarding reported concession granted Western Union Telegraph Co. to lay cable from Cojimar to Barbados.	60
July 10 (253)	<i>From the Chargé in Cuba</i> Concession to Western Union Telegraph Co. (text printed) for cable from Cuba to Barbados.	60
Aug. 13 (333)	<i>From the Chargé in Cuba</i> Presidential decrees, nos. 1197, 1200, 1201, and 1202 of July 20, 1920 (texts printed), granting certain concessions to All America Cables for lines along Cuban coast and to mainland.	61
Oct. 14	<i>From the President of the Commercial Cable Company</i> Executive decree no. 857, May 27, 1920 (text printed), granting concession to company to lay another cable from Miami to Habana.	66
Nov. 11 (232)	<i>To the Minister in Cuba (tel.)</i> Instructions to report if any of Barbados-Cuba cable has been laid and to investigate possibility, since application to land Miami end of Barbados-Brazil cable has been withdrawn, that Western Union may attempt to tap cable to Habana beyond U. S. territorial waters.	67
Nov. 13 (298)	<i>From the Minister in Cuba (tel.)</i> Preparation by Western Union to lay cable under permit; no connection outside U. S. territory near Miami.	67
Nov. 29 (326)	<i>From the Minister in Cuba (tel.)</i> Assertion by representative of All America Cables that Legation was to be instructed to request that cable-laying by Western Union be suspended until international aspect be considered. Request for instructions.	68
Dec. 2 (254)	<i>To the Minister in Cuba (tel.)</i> Instructions to inquire informally if Western Union has been granted privilege of connecting at Habana proposed Barbados-Habana cable with Habana-Florida cable.	68
Dec. 14 (346)	<i>From the Minister in Cuba (tel.)</i> Probable immediate action by President, should the United States request that suspension of Western Union concession be made.	69
Dec. 14 (347)	<i>From the Minister in Cuba (tel.)</i> Ability of Western Union to connect Barbados-Habana cable with Habana-Florida cable only by virtue of latter concession; impossibility of preventing relay of messages through Habana office.	69
Dec. 24 (360)	<i>From the Minister in Cuba (tel.)</i> President's suspension of Western Union permit for landing of Barbados cable at Cojimar.	69

CUBA

RICE IMPORTATIONS

REFUSAL BY CUBAN IMPORTERS TO ACCEPT AMERICAN SHIPMENTS OF RICE AT PURCHASE PRICES; REPRESENTATIONS TO THE CUBAN GOVERNMENT—PRESIDENT MENOCAL'S DECREE OF SEPTEMBER 6, 1920, RESTRICTING AND REGULATING IMPORTATIONS; DISSATISFACTION OF THE UNITED STATES—PRESIDENT MENOCAL'S NEW DECREE, NOVEMBER 19, 1920

Date and number	Subject	Page
1920		
June 26 (97)	<i>To the Chargé in Cuba (tel.)</i> Instructions to call attention of Government to serious situation caused by refusal of Cuban merchants to accept shipments of rice bought by them.	70
June 28 (232)	<i>From the Chargé in Cuba</i> Interview with secretary to President on rice situation. Recommendations that rice shipments to Cuba be canceled.	70
July 12 (109)	<i>To the Chargé in Cuba (tel.)</i> Protest of Rice Association of California against repudiation by Cuban merchants of rice contracts. Instructions to discuss matter again with Government.	71
Aug. 2 (171)	<i>From the Chargé in Cuba (tel.)</i> Proposal to restrict importation of rice to Cuba as solution agreed upon by exporters and importers. Request for instructions.	72
Aug. 7 (131)	<i>To the Chargé in Cuba (tel.)</i> Department's approval of plan for restricted importation of rice.	73
Aug. 28 (147)	<i>To the Chargé in Cuba (tel.)</i> U. S. dissatisfaction at delay in reaching solution of rice problem; instructions to stress urgent need for definite action.	73
Aug. 30 (195)	<i>From the Chargé in Cuba (tel.)</i> Efforts to secure settlement of rice situation by Presidential decree.	74
Sept. 9 (393)	<i>From the Minister in Cuba</i> Executive decree of Sept. 6, 1920, regulating importations of rice (text printed). Unsatisfactory nature of decree because of deviation from plan agreed to by exporters.	75
Sept. 22 (219)	<i>From the Minister in Cuba (tel.)</i> Anti-American character of decree, making more difficult solution of rice problem. Proposed plan of price fixing. Recommendation for firm statement by Department.	79
Sept. 30 (173)	<i>To the Minister in Cuba (tel.)</i> Instructions to make representations to President regarding nature of decree of Sept. 6. Inquiry regarding new plan of settlement by price-fixing.	79
Oct. 8 (445)	<i>From the Minister in Cuba</i> Letter sent to President Menocal (text printed) expressing dissatisfaction with decree; confidential agreement between California Rice Association and Cuban Government for remedial measures following elections.	80
Oct. 29 (507)	<i>From the Minister in Cuba</i> Proposal of local representatives of California Rice Association that Department urge Cuban Government to take over rice in connection with pending financing and thus assist Cuban merchants in carrying out contracts.	81

CUBA

RICE IMPORTATIONS—Continued

Date and number	Subject	Page
1920 Nov. 17 (241)	<i>To the Minister in Cuba (tel.)</i> Instructions to urge remedial measures suggested, should Government fail to continue rice embargo and other protective acts.	82
Nov. 22 (564)	<i>From the Minister in Cuba</i> President's new decree, Nov. 19, regarding rice importation, which meets desires of Rice Growers Association.	83

McGIVNEY AND ROKEBY CONSTRUCTION COMPANY'S CONTRACT OF JUNE 23, 1908; PROPOSAL BY THE UNITED STATES FOR ARBITRATION OF DISPUTES BETWEEN THE COMPANY AND THE CUBAN GOVERNMENT, MARCH 25, 1919; DIRECT SETTLEMENT OF THE DISPUTES AND TERMINATION OF CONTRACT

1908 June 25 (683)	<i>From the Minister in Cuba</i> Executive decree no. 681, June 22, 1908, granting new contract to McGivney and Rokeby Construction Co. and containing pertinent correspondence between President Roosevelt, Secretary Taft, and Secretary Root (texts printed).	83
1919 Mar. 25 (777)	<i>To the Minister in Cuba</i> Instructions to present to Government the draft protocol for arbitration of company's claims, and to call attention to U. S. direct interest in their fulfillment and Cuba's obligation thereto.	92
July 25 (1048)	<i>From the Minister in Cuba</i> Note from Secretary of State (text printed) detailing Cuban objections to proposed arbitration of claim of construction company.	94
Oct. 29 (882)	<i>To the Minister in Cuba</i> Refutation of Cuban argument against arbitration of claim and insistence upon adoption of protocol, lest the United States take refusal into account in other pending matters.	100
Dec. 10 (55)	<i>From the Minister in Cuba (tel.)</i> Statement of Secretary of State that serious consideration is being given claim and inquiry regarding possible U. S. action in case of Cuban refusal to adopt protocol.	103
Dec. 16	<i>To the Minister in Cuba (tel.)</i> U. S. refusal to go into greater detail regarding its position; statement that Cuban reply to U. S. proposal of arbitration is awaited with concern.	103
1920 Mar. 20 (49)	<i>To the Minister in Cuba (tel.)</i> Further representations to Cuba regarding arrangements for arbitration of McGivney and Rokeby claim.	103
Mar. 25	<i>From the Minister in Cuba (tel.)</i> Proposal of direct settlement of claim without recourse to arbitration. Favorable reception by President.	105
Mar. 27 (80)	<i>From the Minister in Cuba (tel.)</i> President's offer to make direct settlement with representative of McGivney and Rokeby.	105

CUBA

McGIVNEY AND ROKEBY CONSTRUCTION COMPANY'S CONTRACT, ETC.—Continued

Date and number	Subject	Page
1920 Apr. 13 (66)	<i>To the Minister in Cuba (tel.)</i> Departure of representative of McGivney and Rokeby Construction Co. for Habana. Instructions to afford proper assistance.	106
Apr. 20 (82)	<i>From the Minister in Cuba</i> Agreement, Apr. 19, 1920, between Cuba and McGivney and Rokeby Construction Co. (text printed), in final settlement of claim, and termination of contract.	106

DOMINICAN REPUBLIC

POLITICAL AND ECONOMIC AFFAIRS

PROGRESS OF REFORMS UNDER THE MILITARY GOVERNMENT—DECISION BY THE UNITED STATES TO INITIATE MEASURES FOR WITHDRAWAL FROM THE GOVERNMENT OF THE REPUBLIC; PROCLAMATION OF DECEMBER 23, 1920—POLITICAL AND ECONOMIC EMBARRASMENTS OF THE MILITARY GOVERNOR

1920 June 3 (350)	<i>To the Chargé des Affaires in the Dominican Republic</i> Proposal that Military Governor appoint a commissioner of Dominicans to formulate, for ultimate enactment, certain basic laws regarding elections, education, and sanitation.	110
June 24 (Op-13A 18870- 493)	<i>From the Acting Secretary of the Navy</i> Quarterly report of the Military Governor of Santo Domingo for period ending Mar. 31, 1920 (excerpt printed).	111
July 7 (21)	<i>To the Chargé des Affaires in the Dominican Republic (tel.)</i> Instructions to request Military Governor to postpone, for the present, appointment of commission.	115
July 16 (590)	<i>From the Chargé des Affaires in the Dominican Republic</i> Memorandum of Military Governor (text printed) expressing opinion that commission of Dominicans to formulate laws would serve no useful purpose.	115
Sept. 1 (Op-13A 16870- 526:1)	<i>From the Secretary of the Navy</i> Quarterly report of Military Governor of Santo Domingo for period ending June 30, 1920, and enclosed report for Department of State (texts printed) regarding mission and results of military government.	120
Oct. 2	<i>To the Diplomatic Officers in Latin America</i> Statement of achievements of U. S. occupation of Santo Domingo with instructions that it be given wide publicity.	132
Oct. 14	<i>To the Secretary of the Navy</i> U. S. lack of authority, under convention of 1907, to instruct General Receiver of Dominican Customs to segregate funds for amortization of 1918 bonds as requested by military government.	132

DOMINICAN REPUBLIC

POLITICAL AND ECONOMIC AFFAIRS—Continued

Date and number	Subject	Page
1920 Nov. 27	<i>To the Secretary of the Navy</i> Presidential approval of steps for gradual withdrawal from control of the Dominican Government, including proclamation by Military Governor to that effect, and formation of commission of Dominicans to revise the laws.	136
Nov. 29	<i>From the Secretary of the Navy</i> Argument of Judge Advocate General of the Navy (text printed) to prove responsibility of Department of State in regard to amortization of 1918 Dominican bonds.	138
Dec. 4 (42)	<i>To the Minister in the Dominican Republic (tel.)</i> Proclamation (text printed) to be issued by Military Governor for appointment of commission of Dominicans, with U. S. technical adviser, to revise laws, in preparation for ultimate withdrawal of U. S. occupation.	145
Dec. 11 (43)	<i>To the Minister in the Dominican Republic (tel.)</i> Suggestions as to personnel of commission of Dominicans and request for recommendations; request for information on Dominican reaction to proclamation.	146
Dec. 13	<i>To the Secretary of the Navy</i> Decision that provost courts should be abolished, that Executive Order No. 385 restricting free speech and free press be canceled, and that sentences imposed upon journalists by virtue thereof be remitted; suggested personnel for Dominican commission, with request for Military Governor's views.	147
Dec. 13 (45)	<i>To the Minister in the Dominican Republic (tel.)</i> Names of persons suggested for appointment on commission and for technical adviser. Request for views.	148
Dec. 23 (56)	<i>From the Minister in the Dominican Republic (tel.)</i> Recommendations of Minister and Military Governor as to personnel of proposed commission.	149
Dec. 27 (57)	<i>From the Minister in the Dominican Republic (tel.)</i> Protest against proclamation by politically-controlled press; possibility of consequent difficulty in securing Dominicans for commission.	150
Dec. 29 (58)	<i>From the Minister in the Dominican Republic (tel.)</i> Acceptance of appointment on commission by four popular Dominicans despite press denunciation of any who may agree to serve; recommendations for remaining personnel.	150
Dec. 30 (46)	<i>To the Minister in the Dominican Republic (tel.)</i> Final determination regarding appointment of commissioners.	151
Dec. 31	<i>To the Secretary of the Navy</i> Approval of Military Governor's requesting Dominican General Receiver of Customs to segregate funds for payment of interest and amortization of 1918 bonds.	151
1921 Mar. 9	<i>From the Secretary of the Navy</i> Quarterly report of Military Governor of Santo Domingo for period ending Dec. 31, 1920 (excerpt printed).	155

DOMINICAN REPUBLIC

CENSORSHIP

RELAXATION OF THE CENSORSHIP—TRIAL OF JOURNALISTS FOR OFFENSES AGAINST REGULATIONS—EXECUTIVE ORDERS OF THE MILITARY GOVERNOR, DECEMBER 6, 1920, DEFINING AND PROHIBITING DEFAMATION AND SEDITION; OBJECTIONS BY THE DEPARTMENT OF STATE TO THE EXECUTIVE ORDERS AND THE CONCURRENCE OF THE NAVY DEPARTMENT IN THEIR ANNULMENT

Date and number	Subject	Page
1919		
Dec. 10	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to investigate present practice regarding pro-vost courts, control of censorship, and suppression of right of assembly, and to proceed to Washington with report.	160
Dec. 23	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to cable extent of reported changes made in modification of censorship.	161
Dec. 25	<i>From the Minister in the Dominican Republic (tel.)</i> Information regarding regulations which abolish censorship but forbid publication of articles of slanderous or seditious nature.	161
Dec. 27	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to bring to Washington text of regulations which forbid publication of articles of slanderous or seditious nature.	161
1920		
Jan. 12 (1)	<i>To the Chargé des Affaires in the Dominican Republic (tel.)</i> Recommendations for issue of Executive order abolishing censorship but continuing in force regulations regarding defa-mation and sedition.	162
Jan. 16 (3)	<i>From the Chargé des Affaires in the Dominican Republic (tel.)</i> Issue of Executive order embodying provisions recom-mended.	162
Jan. 22 (542)	<i>From the Chargé des Affaires in the Dominican Republic</i> Executive Order No. 385, Jan. 15, 1920, of the military government of Santo Domingo (text printed) abolishing cen-sorship but prohibiting articles and speeches likely to cause public disorder.	162
July 30 (28)	<i>To the Chargé des Affaires in the Dominican Republic (tel.)</i> Inquiry regarding imprisonment and trial of Amerigo Lugo, Fabio Fiallo, and others for infractions of censorship regula-tions.	164
Aug. 3 (29)	<i>From the Chargé des Affaires in the Dominican Republic (tel.)</i> Information regarding arrest of Lugo, Fiallo, and others.	164
Aug. 13 (31)	<i>To the Minister in the Dominican Republic (tel.)</i> Recommendation that trials of Lugo, Fiallo, and Flores Cabrera be expedited and sentences made light because of deep concern throughout Latin America.	165
Sept. 2	<i>To the Secretary of the Navy</i> Unfavorable comment on heavy sentence imposed upon Fiallo; influence on Latin American propaganda against military occupation.	165
Sept. 3	<i>From the Secretary of the Navy</i> Telegram sent to Military Governor (text printed) ordering suspension of proceedings and sentences in sedition cases pending approval of Washington.	166

DOMINICAN REPUBLIC

CENSORSHIP—Continued

Date and number	Subject	Page
1920 Sept. 10	<i>To the Secretary of the Navy</i> Expression of approbation of step taken suspending all proceedings and sentences.	166
Oct. 8 (38)	<i>To the Minister in the Dominican Republic (tel.)</i> Inquiry whether sentence has been suspended and defendant released in Fiallo case and whether any similar arrests have been made.	167
Oct. 11 (45)	<i>From the Minister in the Dominican Republic (tel.)</i> Detention of Fiallo and others, awaiting word from Navy Department; release of Cabrera on bond.	167
Oct. 13 (46)	<i>From the Minister in the Dominican Republic (tel.)</i> Liberation of Fiallo under surveillance for medical treatment.	168
Oct. 23 (49)	<i>From the Minister in the Dominican Republic (tel.)</i> Liberation of other journalists under surveillance.	168
Nov. 16	<i>To the Secretary of the Navy</i> Inquiry whether information has been received confirming report of imprisonment of Horacio Blanco Fombono, Dominican journalist.	168
Nov. 23 (Op-13 16870- 517:9)	<i>From the Secretary of the Navy</i> Military Governor's report on trial and conviction of Blanco Fombono (text printed).	169
Dec. 9 (642)	<i>From the Minister in the Dominican Republic</i> Executive Orders Nos. 572 and 573, Dec. 6, 1920, of the military government of Santo Domingo regarding sedition and defamation respectively (texts printed).	169
1921 Jan. 3	<i>To the Secretary of the Navy</i> Expression of regret at terms of Executive Orders Nos. 572 and 573 and transmittal of draft Executive order for revocation thereof, leaving in force portions of order No. 385.	172
Jan. 5	<i>From the Secretary of the Navy</i> Annulment of Executive Orders Nos. 572 and 573, by new proclamation appealing to best sentiment of Dominican people for cooperation.	173

ECUADOR

FINANCIAL AFFAIRS

PROJECT FOR AN ITALIAN LOAN OF 40,000,000 SUQUES TO ECUADOR—PLAN FOR REFUNDING THE ECUADORAN FOREIGN DEBT BY BANKS IN THE UNITED STATES

1919 Oct. 2	<i>From the Minister in Ecuador (tel.)</i> Italian proposal of loan to Ecuador in return for tobacco monopoly and preferential treatment in other concessions.	174
----------------	---	-----

ECUADOR
FINANCIAL AFFAIRS—Continued

Date and number	Subject	Page
1919 Oct. 23	<i>From the Minister in Ecuador (tel.)</i> Probability of passage of bill in Congress authorizing loan to Ecuador, understood to be offered by U. S. bankers, for public works, service of interest, and amortization of Guayaquil and Quito Railway bonds, etc.	175
Nov. 5	<i>From the Minister in Ecuador (tel.)</i> Congressional approval of bill authorizing President to make <i>ad referendum</i> contract with Italian Government for loan to Ecuador.	175
Nov. 12 (466)	<i>From the Minister in Ecuador</i> Legislative decree of Oct. 28, 1919, authorizing President to negotiate <i>ad referendum</i> an Italian loan to Ecuador (text printed).	175
Dec. 11	<i>From the Minister in Ecuador (tel.)</i> Inactive status of U. S. and Italian proposed loans.	179
1920 Feb. 25 (1074)	<i>To the Chargé in Italy</i> Instructions to intimate, if Italian Government is interested in proposed Ecuadoran loan, that the United States disapproves increase of Ecuador's foreign debt while nation is in default on service of railway bonds guaranteed by Government.	179
Apr. 14 (1581)	<i>From the Chargé in Italy</i> Presentation of U. S. observations as instructed in view of Italian Government approval and support of Ecuadoran loan being considered by Italian bankers.	180
May 19	<i>Memorandum by Mr. Johnson, Division of Latin American Affairs</i> Conference between U. S. and Ecuadoran officials on small loan to Ecuador and conversion of its present indebtedness.	181
June 19 (33)	<i>To the Ambassador in Italy</i> Request for copy of Accorsi contract with Ecuador and for act of Parliament approving it.	183
June 26 (550)	<i>From the Minister in Ecuador</i> Organization of company under Accorsi project and appointment of commissions to proceed to Ecuador to effect definite contract; possibility of discrimination under terms of agreement.	183
Aug. 4 (106)	<i>From the Chargé in Italy</i> <i>Pro memoria</i> from Italian Ministry of Foreign Affairs (text printed) affirming Government support of proposed Italian loan to Ecuador.	184
Oct. 8 (35)	<i>To the Minister in Ecuador (tel.)</i> Instructions to facilitate mission of A. F. Lindberg in Ecuador as representative of Brown Bros. and Co. and Mercantile Bank of the Americas in negotiations for conversion of foreign debt of Ecuador.	185
Oct. 20	<i>From Mr. C. H. Hand, Jr., of Brown Brothers and Company</i> Plan for refunding of Ecuador's foreign debt (text printed).	185

ECUADOR

AFFAIRS OF THE GUAYAQUIL AND QUITO RAILWAY

RESUMPTION, ON MARCH 6, 1920, OF DAILY DEPOSITS FOR THE SERVICE OF THE RAILWAY BONDS BUT IN INSUFFICIENT SUMS—CONCERN OF THE AMERICAN GOVERNMENT OVER THE ECUADORAN GOVERNMENT'S DELAY IN REMITTING THE ACCUMULATED DEPOSITS

Date and number	Subject	Page
1920		
Jan. 31 (4)	<i>To the Minister in Ecuador (tel.)</i> Inquiry regarding resumption of daily deposits for payment of interest on Guayaquil and Quito Railway bonds.	191
Feb. 3 (6)	<i>From the Minister in Ecuador (tel.)</i> Foreign Minister's statement that daily deposits have been resumed.	191
Feb. 24 (8)	<i>From the Minister in Ecuador (tel.)</i> Substance of Foreign Minister's note explaining difficulties in securing funds for service of railway bonds; intention of Government to fulfill its obligations; necessity for loan.	192
Feb. 24 (7)	<i>To the Minister in Ecuador (tel.)</i> Instructions to cable date of resumption of daily deposits and whether payments now continue.	194
Feb. 29 (9)	<i>From the Minister in Ecuador (tel.)</i> Nonresumption of daily deposits; misunderstanding of Foreign Minister's statement to that effect.	194
Mar. 6 (11)	<i>From the Minister in Ecuador (tel.)</i> Explanations regarding misunderstanding of Foreign Minister's statement.	194
Mar. 10 (9)	<i>To the Minister in Ecuador (tel.)</i> Instructions to verify statement made by Ecuadoran Minister that daily deposits have been resumed.	195
Mar. 18 (14)	<i>From the Minister in Ecuador (tel.)</i> Information that daily deposits were resumed Mar. 6 in accordance with Executive decrees; total of such deposits; suspension of negotiations for additional loan.	195
Mar. 19 (11)	<i>To the Minister in Ecuador (tel.)</i> Instructions to interview officials and report whether daily deposits equal amount due on railway bonds.	196
Mar. 22 (18)	<i>From the Minister in Ecuador (tel.)</i> Failure of daily deposits to equal total amount due on railway bonds.	196
Mar. 25 (13)	<i>To the Minister in Ecuador (tel.)</i> Inquiry as to proportion of amount due deposited daily; instructions to investigate Government methods of making deposits.	196
Mar. 26 (14)	<i>To the Minister in Ecuador (tel.)</i> Instructions to request explanations as to why Guayaquil officials refuse to furnish information regarding daily deposits, and why daily deposits fail to equal amount due.	196
Mar. 28 (20)	<i>From the Minister in Ecuador (tel.)</i> Failure of daily deposits to approach amount due, and probability of continued deficit in view of reduced revenue from import duties.	197

ECUADOR

AFFAIRS OF THE GUAYAQUIL AND QUITO RAILWAY—Continued

Date and number	Subject	Page
1920 Apr. 1 (525)	<i>From the Minister in Ecuador</i> Substance of consul general's telegram on Government methods of deposit; note to Foreign Minister and memorandum of interview with him (texts printed) on failure of Guayaquil officials to furnish requested information and inadequacy of daily deposits; arrangements for making available information on deposits.	198
Nov. 1 (39)	<i>To the Minister in Ecuador (tel.)</i> Further inquiry regarding continuance of daily deposits and remittances to London.	202
Nov. 4 (75)	<i>From the Minister in Ecuador (tel.)</i> Report of Government deposits on account of railway bonds and salt certificates and failure to make remittances; fear of withdrawal of funds; recommendation for representations.	202
Nov. 22 (617)	<i>From the Minister in Ecuador</i> Exact amount of deposits on account of interest on railway bonds and salt certificates; failure to make remittances because of lack of exchange; assurances by President that sums deposited would not be withdrawn.	202
Dec. 8 (41)	<i>To the Minister in Ecuador (tel.)</i> Instructions to interview President, express concern over failure of Ecuador to meet obligations, assure him of U. S. assistance and, if true, make representations against President's alleged statement favoring possible foreclosure of railway.	203
Dec. 20 (624)	<i>From the Minister in Ecuador</i> Further report on total deposits for service of railway bonds and salt certificates, and of no remittances to London.	204
Dec. 21 (627)	<i>From the Minister in Ecuador</i> Interview with President regarding Ecuador's failure to meet its indebtedness and President's willingness to see foreclosure of railway rather than arrange for refunding loan.	204

CACAO TRADE

EFFORTS TO SUSTAIN THE CREDIT OF THE CACAO ASSOCIATION—MEASURES URGED UPON THE GOVERNMENT OF ECUADOR BY THE GOVERNMENT OF THE UNITED STATES

1920 Oct. 27 (37)	<i>To the Minister in Ecuador (tel.)</i> Suggestion of continuation of export tax and release of sufficient cacao to cover indebtedness as best means of solving crisis in Ecuadoran cacao dealings with Mercantile Bank of the Americas. Request for views.	206
Nov. 15 (614)	<i>From the Minister in Ecuador</i> Adjournment of Congress without passing 3-sucres-tax extension bill. Letter from assistant manager of Mercantile Bank (text printed) giving survey of situation, stressing necessity for action by Congress for protection of Cacao Assn.	207

ECUADOR

CACAO TRADE—Continued

Date and number	Subject	Page
1920 Nov. 29 (40)	<i>To the Minister in Ecuador (tel.)</i> Plan formulated by Ecuadoran Minister and representative of Mercantile Bank in conference with Department officials for Government action to sustain credit of Cacao Assn. Instructions to use good offices in matter.	210
Dec. 13 (79)	<i>From the Minister in Ecuador (tel.)</i> Presentation to President of plan for financing Cacao Assn., through act of Congress in extra session.	211
Dec. 13 (42)	<i>To the Minister in Ecuador (tel.)</i> Instructions to use good offices and urge solution of cacao problem in view of threatened liquidation of association.	212
Dec. 23 (86)	<i>From the Minister in Ecuador (tel.)</i> President's refusal to convene Congress in immediate extra session; measures to solve cacao problem as recommended by advisory commission.	212

PETROLEUM LEGISLATION OF OCTOBER 18, 1919, AND NOVEMBER 25, 1920

1919 Oct. 30	<i>From the Minister in Ecuador (tel.)</i> Transitory petroleum bill passed Oct. 18, 1919, pending enactment of new law; similarity to Colombian law.	213
1920 Dec. 21 (626)	<i>From the Minister in Ecuador</i> Legislative decree of Nov. 25, 1920 (text printed), modifying transitory law of Oct. 18, 1919, and providing commission to prepare draft of new petroleum law.	213

EGYPT

PROPOSAL BY GREAT BRITAIN TO RECONSTITUTE THE MIXED COURTS AND TO TRANSFER TO THEM THE JURISDICTION EXERCISED BY THE CONSULAR COURTS—INVITATION TO THE GOVERNMENT OF THE UNITED STATES TO MAKE NOMINATIONS TO FILL A VACANCY IN THE MIXED COURT OF APPEAL

1920 Mar. 6 (23)	<i>From the Chargé in Egypt (tel.)</i> Transmittal of draft laws regarding reconstruction of Mixed Tribunals; art. 1 (text printed) explaining British plan of transfer to them of jurisdiction hitherto exercised by consular courts.	216
May 7 (25)	<i>To the Chargé in Egypt (tel.)</i> Instructions to suggest Judge Crabitès for Court of Appeals as successor to Judge Tuck, resigned.	216

EGYPT

PROPOSAL BY GREAT BRITAIN TO RECONSTITUTE THE MIXED COURTS, ETC.—Contd.

Date and number	Subject	Page
1920		
May 11 (44)	<i>From the Chargé in Egypt (tel.)</i> Foreign Minister's noncommitment regarding judgeship appointment since this and related questions have been transferred to London.	216
May 28 (862)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Minister's statement that appointment inadvisable at present and intimation of difficulty of according U. S. representation as a right.	217
June 3 (887)	<i>From the Ambassador in Great Britain (tel.)</i> British suggestion that negotiations regarding judicial reforms proposed for Egypt be conducted in London. Inquiry as to U. S. acquiescence.	217
June 11 (637)	<i>To the Ambassador in Great Britain (tel.)</i> Decision to delay appointment; reservation of rights in that respect and regarding reorganization of Mixed Courts.	218
June 11 (638)	<i>To the Ambassador in Great Britain (tel.)</i> Approval of conducting in London negotiations regarding judicial reforms in Egypt.	218
June 30 (1005)	<i>From the Ambassador in Great Britain (tel.)</i> British proposals (text printed) regarding projected British regime in Egypt. Ambassador's explanatory comment.	218
July 19 (3171)	<i>From the Ambassador in Great Britain</i> Explanations regarding measures contemplated in draft law, such as end of foreigners' immunity from taxation and local legislation, in addition to reorganization of Mixed Courts and closing of consular courts.	220
Aug. 18 (3304)	<i>From the Chargé in Great Britain</i> British note (text printed) in further exposition of proposed measures of reform in judicial system of Egypt.	222
Aug. 27 (551)	<i>From the British Embassy</i> Assertion that agreement being negotiated between Great Britain and Egypt will not interfere with modification of capitulations and abolition of consular courts.	225
Oct. 14 (3585)	<i>From the Chargé in Great Britain</i> British note (text printed) stating that <i>status quo</i> will continue in Egypt for 6 months and requesting that successor to Judge Tuck be named.	226
Nov. 23 (1038)	<i>To the Ambassador in Great Britain</i> Inquiry regarding acceptability of appointment of Judge Crabitès; information that Department's views on judicial reform will be sent after due consideration.	227

ETHIOPIA

TREATY OF JUNE 27, 1914, WITH THE UNITED STATES

NEGOTIATION AND SIGNATURE OF A TREATY OF COMMERCE AT ADDIS ABABA—
NOTIFICATION TO PRINCE LIDJ YASSOU, DECEMBER 20, 1914, OF RATIFICATION BY
THE UNITED STATES—PROCLAMATION OF THE TREATY BY PRESIDENT WILSON,
AUGUST 9, 1920

Date and number	Subject	Page
1914 Apr. 18 (4)	<i>From the Consul General at Addis Ababa</i> Negotiations to secure new commercial treaty with Ethiopia; hesitation on part of Foreign Minister.	229
June 9 (14)	<i>From the Consul General at Addis Ababa</i> Description of consular courts in Ethiopia; Government's objections to extraterritorial rights and desire that proposed treaty expire in 4 years.	230
Sept. 1	<i>Report of the Consul General at Addis Ababa, temporarily at Washington</i> Incidents preceding and in connection with the signing of commercial treaty with Ethiopia.	231
Oct. 14	<i>President Wilson to Prince Lij Yassou of Ethiopia</i> Transmittal of instrument of ratification of treaty following ratification by and with advice and consent of Senate.	241
Dec. 24	<i>Prince Lij Yassou of Ethiopia to President Wilson</i> Acknowledgment of receipt of notification and instrument of ratification.	242
1920 Aug. 11	<i>To President Wilson</i> Request that treaty of June 27, 1914, with Ethiopia, be now proclaimed. Explanation of delayed presentation for proclamation. (Footnote: Treaty proclaimed Aug. 9, 1920.)	242
1914 June 27	<i>Treaty between the United States and Ethiopia</i> Text of treaty of commerce signed at Addis Ababa.	243

GRANT OF PETROLEUM RIGHTS TO THE ANGLO-AMERICAN OIL COMPANY, LIMITED,
UNDER THE BAGHDASSARIAN CONCESSION IN WESTERN HARRAR

1920 June 8 (9716)	<i>From the Consul General at London</i> Request that consul at Aden be instructed to accompany oil exploring party (virtually Standard Oil Co.) to Abyssinia. Letter from Anglo-American Oil Co. representative (text printed) describing Baghdassarian concession and requesting U.S. official aid in connection with expedition.	245
July 3	<i>To the Consul at Aden (tel.)</i> Instructions to proceed to Abyssinia and render proper assistance to Anglo-American Oil party.	248
Sept. 6 (409)	<i>From the Consul at Aden</i> Detailed account of acquiring by the Baghdassarian Anglo-American Oil Co. of new concession to prospect for oil in Harrar province in place of canceled original concession.	248

FINLAND

TERMINATION OF HOSTILITIES WITH RUSSIA

INQUIRIES FROM THE GOVERNMENT OF FINLAND REGARDING THE POLICY OF THE UNITED STATES TOWARD RUSSIAN ATTACKS ON FINLAND—DECISION BY THE UNITED STATES TO REFRAIN FROM OFFERING ADVICE TO THE GOVERNMENT OF FINLAND—CONCLUSION OF PEACE BETWEEN FINLAND AND RUSSIA

Date and number	Subject	Page
1920		
Mar. 20 (2)	<i>From the Chargé in Finland (tel.)</i> Chargé's warm reception by officials; expressions of appreciation of U.S. recognition and assistance; inquiry as to U.S. policy respecting Soviet Russia.	253
Mar. 23	<i>Memorandum by Mr. F. L. Belin, Division of Russian Affairs</i> Finnish Minister's statement of Bolshevik attacks on Finnish frontier and request for U.S. advice; U.S. refusal because not in position to furnish money, ammunition, or supplies.	253
May 4 (1540)	<i>From the Minister in Norway</i> Truce between Finland and Russia for purpose of discussing boundary questions; Norway's interest in boundary regulations in Petsjenga district.	254
May 24	<i>Memorandum by the Minister in Poland, temporarily at Washington</i> Finnish Minister's statement on hostile moves of Soviet troops and request for U.S. advice on concluding peace; U.S. unwillingness to give material aid or advice.	255
June 4 (379)	<i>To the Minister in Norway</i> Opinion that no valid arrangement can be made with Soviets regarding boundaries until sanctioned by some recognized government of Russia.	255
Aug. 14 (61)	<i>From the Chargé in Finland (tel.)</i> Continuation of old frontier under armistice between Finland and Russia, with minor exceptions; denial to Russia of navigable access to Gulf of Finland. Paris informed.	256
Oct. 15 (70)	<i>From the Chargé in Finland (tel.)</i> Conclusion of peace between Finland and Bolsheviks. Terms. Paris informed.	256
1921		
Jan. 4 (12)	<i>From the Finnish Minister</i> Notification of Dec. 31, 1920, as effective date of treaty of peace between Finland and Russia.	256
Mar. 11 (206)	<i>From the Finnish Minister</i> Cession of Petchenga and its occupation by Finland under treaty.	257

GERMANY

CONTINUATION IN FORCE OF THE ARMISTICE BETWEEN THE UNITED STATES AND GERMANY

Date and number	Subject	Page
1920 Jan. 13	<i>To the Swiss Minister</i> Statement for Germany (text printed) asserting that armistice between the United States and Germany is regarded as continuing in full force despite deposit of ratifications of Treaty of Versailles.	258

RELATIONS OF THE AMERICAN COMMISSIONER WITH THE GERMAN AUTHORITIES;
GERMAN DESIRE FOR REPRESENTATION AT WASHINGTON

1920 June 8 (588)	<i>From the Commissioner at Berlin (tel.)</i> Suggestion of Under Secretary of State for unofficial German representation at Washington. Request for instructions.	258
June 18 (515)	<i>To the Commissioner at Berlin (tel.)</i> Instructions discreetly to inform Government that discussion of German unofficial representation in the United States is inopportune.	259
July 31 (911)	<i>From the Commissioner at Berlin (tel.)</i> Bolshevik representative's request for equal privileges with U.S. Commissioner. Consequent curtailment of privileges of latter.	259
Aug. 2 (915)	<i>From the Commissioner at Berlin (tel.)</i> Evident influence of refusal of German representation in America upon privileges of Commissioner at Berlin.	260
Aug. 7 (932)	<i>From the Commissioner at Berlin (tel.)</i> Foreign Minister's intimation of disapproval of existence of U.S. representation at Berlin without privilege of reciprocity.	260
Aug. 9 (920)	<i>To the Commissioner at Berlin (tel.)</i> Request for views on advisability of designating Dresel and Grant-Smith as high commissioners.	261
Aug. 11 (957)	<i>From the Commissioner at Berlin (tel.)</i> Inadvisability of promotion to high commissioner.	262
Aug. 12 (950)	<i>To the Commissioner at Berlin (tel.)</i> Regret over German request that Commissioner concede privileges to gratify Bolshevik representative's demands. Instructions to report any similar requests in future.	262

GERMAN PROTEST AGAINST THE NOMINATION BY THE UNITED STATES OF AN
ARBITRATOR FOR RIVER SHIPPING

1920 Mar. 16 (715)	<i>From the Ambassador in France (tel.)</i> Note from Millerand (text printed) requesting in the name of the Allies that a U.S. arbitrator for river shipping be named in accordance with Versailles Treaty.	263
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GERMANY

GERMAN PROTEST AGAINST THE NOMINATION BY THE UNITED STATES OF AN
ARBITRATOR FOR RIVER SHIPPING—Continued

Date and number	Subject	Page
1920 Apr. 30 (866)	<i>To the Ambassador in France (tel.)</i> Nomination of Walker D. Hines as arbitrator. Instructions regarding acceptability of Hines and his rights and duties. (Instructions to repeat to Hudson in London.)	264
July 31 (910)	<i>From the Commissioner at Berlin (tel.)</i> German objections to U. S. arbitrator for river shipping because of U. S. nonratification of treaty. Commissioner's view that protest should be referred to Conference of Ambassadors, Paris.	265
Aug. 5 (1336)	<i>To the Ambassador in France (tel.)</i> For Dresel: Instructions to point out invalidity of German protest. Inquiry of Embassy whether enemy powers concurred in appointment of Hines.	265
Aug. 10	<i>From the Swiss Chargé</i> Note from Swiss Foreign Office (text printed) presenting formal German protest against appointment of U. S. arbitrator for river shipping.	267
Aug. 10 (948)	<i>From the Commissioner at Berlin (tel.)</i> Further explanation of German attitude toward appointment of U. S. arbitrator. Recommendations for firm attitude.	268
Aug. 12 (1538)	<i>From the Chargé in France (tel.)</i> Information that Germany had been merely notified of appointment of Hines, and had, in response to request, appointed delegates to confer with him.	269
Aug. 31	<i>To the Swiss Chargé</i> Note for German Government (text printed) disavowing German protest and criticizing German attitude, affirming appointment of Hines to be in accord with treaty of peace.	270
Sept. 1 (1047)	<i>From the Commissioner at Berlin (tel.)</i> Further discussion with German Foreign Minister on subject of German protest against U. S. arbitrator.	271
Sept. 8 (1668)	<i>From the Ambassador in France (tel.)</i> Note sent by Conference of Ambassadors to German Government (substance printed) refusing to admit validity of German argument against U. S. arbitrator in view of terms of treaty and Allied formal invitation.	271
Oct. 1	<i>From the Swiss Chargé</i> Note from Swiss Political Department transmitting German reply to Conference of Ambassadors (texts printed) stating Germany's unchanged viewpoint regarding Hines but decision not to protest further.	272

GERMANY

PROTEST OF THE ASSOCIATED GOVERNMENTS AGAINST GERMAN IMPORT AND EXPORT REGULATIONS

Date and number	Subject	Page
1920 Mar. 3 (614)	<i>From the Ambassador in France (tel.)</i> French note (text printed) setting forth certain bases for negotiations with Germany regarding customs duties and questions in relation to exports and imports. Inquiry as to U. S. adherence.	273
Mar. 16 (539)	<i>To the Ambassador in France (tel.)</i> Instructions to present U. S. views (substance printed) regarding proposed bases for normal trade with Germany.	275
Mar. 22 (778)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Note from Belgian, French, and Italian delegates addressed to Conference of Ambassadors regarding proposed bases for negotiations with Germany.	277
Apr. 1 (663)	<i>To the Ambassador in France (tel.)</i> Further exposition of U. S. views regarding German trade, with stipulation that commercial control should involve no discrimination.	278
May 14 (1148)	<i>From the Ambassador in France (tel.)</i> Report of Technical Committee appointed to study German commercial regime, submitting certain propositions (text printed) for consideration of Conference of Ambassadors, with aim of requiring German observance of commercial clauses in peace treaty.	279
May 26 (1015)	<i>To the Ambassador in France (tel.)</i> Necessity for definite information on data examined by Technical Committee in order that Department can render decision. Instructions to obtain such information and make recommendations.	282
June 10 (1274)	<i>From the Ambassador in France (tel.)</i> Examination of evidence, disclosing German violation of arts. 264-269 of treaty. Draft notification to Germany of its obligations (text printed), to be submitted first for approval of Conference of Ambassadors. Request for instructions.	283
June 16 (1122)	<i>To the Ambassador in France (tel.)</i> Concurrence in general with spirit and demands of draft note to Germany with slight modifications.	286
July 6 (1361)	<i>From the Ambassador in France (tel.)</i> Transmittal of notification to Germany; reply (text printed); consideration thereof in Conference of Ambassadors; U. S. opposition to suggestion that question be taken up at Spa.	287
July 15 (1248)	<i>To the Ambassador in France (tel.)</i> Insistence upon submission for views of the Department any further proposed representations to Germany regarding commercial regime.	289

GERMANY

OCCUPATION OF THE RHINELAND BY THE ALLIED AND ASSOCIATED POWERS

REPORT OF THE AMERICAN OBSERVER ON THE RHINELAND HIGH COMMISSION—DISPATCH OF ADDITIONAL TROOPS BY GERMANY INTO THE RUHR BASIN—FRENCH OCCUPATION OF DARMSTADT AND FRANKFORT; ATTITUDE OF THE AMERICAN, BRITISH, ITALIAN, AND BELGIAN GOVERNMENTS—APPOINTMENT OF GENERAL ALLEN AS AMERICAN OBSERVER—USE BY FRANCE OF AFRICAN TROOPS IN THE RHINELAND—DISCUSSIONS REGARDING PAYMENT OF EXPENSES OF ARMIES OF OCCUPATION—ATTITUDE OF THE ASSOCIATED GOVERNMENTS TOWARD PROVOCATIVE SPEECHES BY MEMBERS OF THE GERMAN CABINET IN OCCUPIED TERRITORY—PROPOSED REDUCTION OF THE AMERICAN ARMY OF OCCUPATION

Date and number	Subject	Page
1920 Feb. 27	<i>From the Observer on the Rhineland High Commission</i> French pressure for economic control in occupied territory including separation of territory from rest of Germany and for nullification of civil control; French desire to occupy Ruhr also; report on German military forces and economic and industrial situation in Germany.	289
Mar. 6	<i>From the Observer on the Rhineland High Commission (tel.)</i> Observer's lack of sympathy with military occupation and efforts for separation of Rhine territory from Germany and occupation of Ruhr; desire to resign post.	296
Mar. 19 (201)	<i>From the Commissioner at Berlin (tel.)</i> German request to be allowed to send additional troops to Ruhr to maintain order. Recommendations that United States join British in approving; French objection unless German troops are withdrawn from Frankfort.	297
Mar. 22 (575)	<i>To the Ambassador in France (tel.)</i> Instructions to join with British colleague if he supports German request; disapproval of French attitude.	297
Mar. 22 (790)	<i>From the Ambassador in France (tel.)</i> Telegram of Rhineland High Commissioners to their respective governments (text printed) regarding disposition of 1,500 interned soldiers of Reichswehr having taken refuge in British zone near Cologne.	298
Mar. 24 (595)	<i>To the Ambassador in France (tel.)</i> Approval of attitude of impartial neutrality favored by High Commission; feasibility of using interned troops to maintain order in Ruhr district.	298
Mar. 24 (804)	<i>From the Ambassador in France (tel.)</i> Proposal in Ambassador's Conference to refuse German request; request for instructions whether to disclose U. S. views since British Ambassador has not yet publicly supported German request.	299
Mar. 26 (613)	<i>To the Ambassador in France (tel.)</i> Instructions to present U. S. views favoring additional German troops in neutral zone when needed to preserve order and objecting to further occupation of German territory as having no bearing on matter.	299
Mar. 29 (848)	<i>From the Ambassador in France (tel.)</i> French opinion that Germany should give some guaranty of withdrawal of troops to be sent into neutral zone and that Reichswehr troops in British zone should be disarmed. Statement of U. S. position at Conference of Ambassadors.	300

GERMANY

OCCUPATION OF THE RHINELAND, ETC.—Continued

Date and number	Subject	Page
1920		
Mar. 29 (253)	<i>From the Commissioner at Berlin (tel.)</i> Information regarding communist uprisings in Ruhr; Under Secretary of State's counter-proposal conceding French demand for right to occupy Frankfort area if German reinforcements remain in Ruhr longer than 4 weeks.	301
Mar. 31 (253)	<i>From the Commissioner at Berlin (tel.)</i> Quieting effect of reinforcements sent into disturbed area with consent of French.	301
Apr. 2 (666)	<i>To the Ambassador in France (tel.)</i> Restatement of position favoring reinforcements in Ruhr until order is restored, and return with arms of interned Reichswehr troops as emergency measure. Continued opposition to question of French advance into unoccupied Germany.	302
Apr. 2 (885)	<i>From the Ambassador in France (tel.)</i> Memorandum by Goeppert, German Commissioner, regarding grave situation in Ruhr district and urgent need for and entrance of troops into neutral zone, with understanding that French consent had been obtained. French claim of misunderstanding of position.	303
Apr. 3 (895)	<i>From the Ambassador in France (tel.)</i> French explanation of alleged misunderstanding and claim that German troops were unauthorized to enter neutral zone; insistence that they be withdrawn.	305
Apr. 4 (272)	<i>From the Commissioner at Berlin (tel.)</i> German request that further action be held up in view of restoration of order in Ruhr district and prospect of prompt retirement of German troops.	306
Apr. 4 (273)	<i>From the Commissioner at Berlin (tel.)</i> French note to German Chargé intimating contemplated separate action against Germany in view of violation of treaty.	306
Apr. 4	<i>From the Observer on the Rhineland High Commission (tel.)</i> Concentration of French troops for possible advance on Frankfort and Darmstadt; German denial of violation of spirit of treaty in determining to increase forces. Inquiry as to movement of U. S. forces.	307
Apr. 5 (98)	<i>To the Commissioner at Berlin (tel.)</i> Summary of U. S. attitude regarding issues involved in Ruhr disturbances, for confidential information and to be used as suggestions if desirable.	308
Apr. 5 (903)	<i>From the Ambassador in France (tel.)</i> Note from Goeppert (text printed) regarding situation in neutral zone, negotiations for occupation, and justification of action taken. Proposed discussion of note in Conference of Ambassadors. German War Department note guaranteeing early evacuation of Ruhr (text printed).	308
Apr. 6 (905)	<i>From the Ambassador in France (tel.)</i> From Coblenz: French occupation of Darmstadt, Frankfort, and Hanau, with no sign of resistance.	311

GERMANY

OCCUPATION OF THE RHINELAND, ETC.—Continued

Date and number	Subject	Page
1920		
Apr. 6	<i>To the Observer on the Rhineland High Commission (tel.)</i> The President's statement to the House explaining independent status of U. S. troops on Rhine and position of U. S. Observer on Rhineland High Commission.	311
Apr. 6 (911)	<i>From the Ambassador in France (tel.)</i> Further explanations by Millerand regarding situation in neutral zone and French occupation of Frankfort area.	312
Apr. 6 (285)	<i>From the Commissioner at Berlin (tel.)</i> Germany's protest to League of Nations and Allies, claiming violation of treaty a matter for League to decide; request for extension of agreement of Aug. 8, 1919, permitting troops in neutral area.	314
Apr. 6 (915)	<i>From the Ambassador in France (tel.)</i> Goepfert's note to France (text printed) affirming expectation of early withdrawal of reinforcements in neutral zone and requesting suspension of eventual measures.	315
Apr. 7 (279)	<i>From the Commissioner at Berlin (tel.)</i> Summary of German note of protest regarding unilateral occupation of Frankfort area without consulting League of Nations (excerpts printed).	315
Apr. 7	<i>From the Observer on the Rhineland High Commission (tel.)</i> Identical telegrams by each high commissioner to his Government (text printed) regarding internment of Red troops in British zone, prospective arrival of many more, and problem of their repatriation.	317
Apr. 7 (560)	<i>From the Ambassador in Great Britain (tel.)</i> British and Italian disapproval of French action in sending troops across the Rhine; calling of British Cabinet to consider what action may be taken; request for U. S. views. Paris informed.	317
Apr. 8 (359)	<i>To the Ambassador in Great Britain (tel.)</i> Recapitulation of U. S. attitude toward Ruhr Valley question as already presented to France and decision to make no further protests at this time.	318
Apr. 8 (713)	<i>To the Ambassador in France (tel.)</i> Request for Ambassador's impressions regarding situation arising out of Ruhr Valley question and information regarding action contemplated by other nations.	319
Apr. 8	<i>To the Observer on the Rhineland High Commission (tel.)</i> War Department's opinion that General Allen should have free hand to dispose of forces for preserving order in area under his control.	319
Apr. 9	<i>Memorandum by the Secretary of State</i> Interview with Italian Ambassador: Italian advocacy of retirement of French troops from Ruhr and substitution of diplomatic and civilian missions for present military missions in Germany.	319
Apr. 9	<i>To the Observer on the Rhineland High Commission (tel.)</i> U. S. approval of British action toward Red troops and hope that early repatriation can be effected.	320

GERMANY

OCCUPATION OF THE RHINELAND, ETC.—(Continued)

Date and number	Subject	Page
1920		
Apr. 9 (59)	<i>From the Ambassador in Belgium (tel.)</i> Belgian decision to participate in measures of occupation taken by France, with provision that these must end as soon as Reichswehr troops are evacuated.	320
Apr. 9 (60)	<i>From the Ambassador in Belgium (tel.)</i> Belgian decision to send battalion to join French forces, while deploring French precipitate action on the Rhine.	321
Apr. 9 (580)	<i>From the Ambassador in Great Britain (tel.)</i> British emphatic note of protest against French occupation and instructions to British Ambassador to withdraw from Conference of Ambassadors pending assurances of joint action in the future.	321
Apr. 9 (950)	<i>From the Ambassador in France (tel.)</i> Note from Goeppert to President of Peace Conference (text printed) repeating request for extension of time limit for evacuation of German troops in Ruhr under agreement of Aug. 8, 1919.	322
Apr. 9 (954)	<i>From the Ambassador in France (tel.)</i> French assurances of future cooperation with Allies and of withdrawal from Frankfort area as soon as unauthorized German forces are evacuated.	323
Apr. 12 (737)	<i>To the Ambassador in France (tel.)</i> Instructions to call attention to possibility of serious consequences as result of French occupation and necessity for evacuation as soon as German troops not needed for maintaining order are withdrawn.	324
Apr. 13	<i>To the Observer on the Rhineland High Commission (tel.)</i> Expression of appreciation of Observer's services and request that he withhold his resignation for the present.	325
Apr. 15 (999)	<i>From the Ambassador in France (tel.)</i> French reply denying necessity for increase in German forces to maintain order in Ruhr and expressing willingness to withdraw French troops as soon as German forces in excess of those allowed by agreement are withdrawn.	325
May 17	<i>To the Observer on the Rhineland High Commission (tel.)</i> Decision to relieve Observer as requested and appoint General Allen as successor. (Footnote: Assumption of duties by General Allen on June 3.)	327
May 22	<i>From the Observer on the Rhineland High Commission (tel.)</i> Observer's efforts to maintain civilian control of occupation as desired by President Wilson. Inquiry whether character of U. S. participation will be changed under Allen.	327
May 27	<i>To the Observer on the Rhineland High Commission (tel.)</i> Restriction of Allen's interests to zone occupied by U. S. forces; assurance that appointment will not constitute departure from principles enunciated by President Wilson.	328

GERMANY

OCCUPATION OF THE RHINELAND, ETC.—Continued

Date and number	Subject	Page
1920		
June 12 (1106)	<i>To the Ambassador in France (tel.)</i> Inquiry as to conduct of African troops used by France in German occupied territory, in view of many letters of protest received.	329
June 25 (1325)	<i>From the Ambassador in France (tel.)</i> German agitation and accusations against African troops employed in French occupation; lack of official denial of charges by France. Recommendation that French be told of ill effect of persistent and undenied reports.	329
June 29 (1185)	<i>To the Ambassador in France (tel.)</i> Instructions to Ambassador to carry out his recommendations.	330
July 28	<i>From the Observer on the Rhineland High Commission (tel.)</i> German offer to pay past and present expenses connected with U. S. representation on High Commission.	330
July 30	<i>To the Observer on the Rhineland High Commission (tel.)</i> Inquiry as to details of German offer.	331
Aug. 2	<i>From the Observer on the Rhineland High Commission (tel.)</i> Details regarding proposed payment of expenses of U. S. representation on High Commission.	331
Aug. 10 (1521)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Conclusions of Reparation Commission regarding liquidation of cost of armies of occupation, including U. S. Army, certificate for latter based on agreement of June 28, 1919, instead of peace treaty.	331
Oct. 1 (1527)	<i>To the Ambassador in France (tel.)</i> For Boyden: Suggested form for U. S. certificate of expenditures for army of occupation, based on armistice agreement rather than Versailles Treaty or agreement of June 28, 1919.	333
Nov. 26 (1344)	<i>From the Commissioner at Berlin (tel.)</i> Telegram to French Ambassador from his Government (text printed) protesting against provocative speeches made by German Ministers in occupied territory, and calling for joint representations by U. S., British, and Belgian colleagues. Request for instructions.	335
Nov. 28 (1349)	<i>From the Commissioner at Berlin (tel.)</i> Views, concurred in by British Ambassador, that representations to Germany should be separate and more moderate than those advocated by French.	335
Dec. 4 (1974)	<i>To the Commissioner at Berlin (tel.)</i> Inadvisability of U. S. representations to Germany jointly with Allies; suggestion of separate, discreet, informal representations to German Foreign Minister if desirable.	336
Dec. 4 (1381)	<i>From the Commissioner at Berlin (tel.)</i> Draft representations agreed upon by French, British, and Belgian representatives (text printed) to be presented separately to Germany regarding provocative speeches of German Ministers.	336

GERMANY

OCCUPATION OF THE RHINELAND, ETC.—Continued

Date and number	Subject	Page
1920 Dec. 7 (1393)	<i>From the Commissioner at Berlin (tel.)</i> Information that discreet, informal representations were made to Foreign Minister; latter's reply in justification of action.	337
Dec. 15 (2013)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Exposition of U. S. technical legal position regarding army costs as compared with position of Allies; recommendation that arrangements be made whereby U. S. interests may stand on same footing with those of Allies.	338
Dec. 17	<i>From the French Ambassador</i> Draft instructions to Commissioners (text printed) for proposed measures to be taken should provocative speeches be repeated by Germany Ministers. Request for U. S. cooperation.	340
Dec. 23 (1720)	<i>To the Ambassador in France (tel.)</i> Information regarding strength of U. S. forces in occupied territory and proposed reductions, substance of which may be communicated to German authorities in accordance with request.	341
Dec. 28	<i>To the French Ambassador</i> Refusal to join in official representations to Germany regarding Cabinet's provocative speeches in occupied territory. Promise to make separate unofficial statement to Germany if U. S. Commissioner approves.	342
Dec. 28 (1732)	<i>To the Ambassador in France (tel.)</i> For Allen: Information regarding French request to join in official representations to Germany. Instructions for informal action should occasion arise.	343
1921 Jan. 11 (28)	<i>To the Ambassador in France (tel.)</i> For Boyden: Argument to substantiate U. S. claim to collect costs of occupation in Germany pursuant to armistice agreement and irrespective of U. S. ratification of peace treaty.	343
Jan. 11 (32)	<i>From the Ambassador in France (tel.)</i> From Allen: Refusal to join in signing representations to German Commissioner; acceptance of Allen's suggestion that only President of High Commission sign.	346

UNOFFICIAL REPRESENTATION OF THE UNITED STATES ON THE REPARATION COMMISSION

1920 Jan. 11 (105)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Minutes of Organization Committee of Reparation Commission (excerpt printed) extending invitation to Rathbone, U. S. Treasury representative, to assist unofficially at meetings of Commission.	346
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GERMANY

UNOFFICIAL REPRESENTATION OF THE UNITED STATES ON THE REPARATION COMMISSION—Continued

Date and number	Subject	Page
1920 Jan. 24 (254)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Summary of inaugural sitting of Reparation Commission, dealing with questions of personnel and organization, including unofficial representation of the United States.	347
Mar. 20 (568)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Early departure of Boyden to relieve Rathbone of reparation work. Continuation of Bayne on Committee of Jurists as unofficial U. S. representative.	348
Apr. 1 (875)	<i>From the Ambassador in France (tel.)</i> Rathbone to Treasury: Details regarding transfer to Boyden of duties as unofficial representative on Reparation Commission.	348
May 5 (1094)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Arrangements for quarters, salaries, expense accounts, etc., of U. S. unofficial representatives on Reparation Commission.	349
May 29 (1044)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Approval of scheme for meeting expenses of U. S. representation on Reparation Commission; instructions to report estimate of monthly expenses.	350
July 1 (1343)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Details of financial arrangement with Commission for sharing expense allowances for unofficial representatives and for Americans working directly for Commission; estimate of monthly expenses.	351
July 8 (1219)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Approval of plan for expense allowances and other financial arrangements.	353

NEGOTIATIONS RELATING TO GERMAN REPARATIONS

PROBLEMS ARISING UNDER ARTICLES 235 AND 260 OF THE TREATY OF VERSAILLES—THE QUESTION OF THE SALE TO THE NETHERLANDS OF SHIPS BUILT IN GERMANY—RELATION OF THE REPARATION COMMISSION TO THE CONFERENCE OF AMBASSADORS—DISCUSSIONS REGARDING DETERMINATION OF THE AMOUNT OF GERMANY'S LIABILITY—THE SPA CONFERENCE—ATTITUDE OF THE UNITED STATES TOWARD THE PERCENTAGE AGREEMENT AND THE COAL PROTOCOL—EVALUATION OF GERMAN SHIPS ALLOCATED TO GREAT BRITAIN—PROPOSED CONFERENCE AT GENEVA—MEETING OF TECHNICAL EXPERTS AT BRUSSELS; DECISION OF THE UNITED STATES NOT TO BE REPRESENTED

1920 Jan. 23	<i>The Unofficial Representative on the Reparation Commission to the Assistant Secretary of the Treasury</i> Dissenting opinion of Bayne (text printed) concerning powers of Reparation Commission over neutral securities of German nationals.	353
Feb. 7 (404)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Request for views regarding sale of ships building in Germany for the Netherlands, in preparation for consideration of matter by Reparation Commission.	360

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920 Feb. 14 (356)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Warning during Peace Conference that sale of ships to Dutch could not be recognized. Instructions not to object to demand on Germany for ships but to maintain U. S. view that war-time bona fide transfers of merchant ships are valid.	361
Feb. 17 (493)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Reparation Commission's letter to German delegation (text printed) demanding explanation of delivery of ship to Netherlands and requiring assurances that other ships will not sail pending hearing of all parties concerned; Rathbone's efforts in preventing prejudgment of case.	362
Feb. 23 (397)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Concurrence in views and action taken regarding ships built in Germany for sale to Dutch; instructions to acquiesce in demand for surrender of ships.	364
Mar. 2 (453)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Approval of Bayne's dissenting opinion regarding art. 235 of treaty and further arguments in support of his brief.	365
Mar. 2 (613)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Proposed letter from Reparation Commission (text printed) requiring that German-owned securities in neutral countries be used for purchase of food and raw materials if Germany is to receive credit against 20 billion marks for additional funds spent for food and supplies.	366
Mar. 15 (534)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Instructions to make strong protest against broad construction of art. 235 as unjust forcing of Germany to sell securities at a sacrifice and as undesirable precedent; willingness to inform powers of position by note if necessary.	368
Mar. 18 (552)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Instructions to present U. S. view that value of German deliveries of ships and resources must be credited on account of 20 milliard marks reparations. Arguments sustaining this viewpoint.	370
Mar. 18 (750)	<i>From the Ambassador in France (tel.)</i> Rathbone to Treasury: Delivery to Germany of letter on use of neutral securities and German reply (text printed) explaining impracticability and unproductivity of such measure; reference of question to finance section; difficult position of U. S. representative.	371
Mar. 20 (767)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Argument that German payments for imports of food and supplies are not deductible from 20-billion-mark obligation.	375
Mar. 20 (769)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Information that U. S. interpretation of art. 235 of treaty has been repeatedly set forth to Reparation Commission.	376

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920		
Mar. 22 (779)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Question whether Reparation Commission should report to Conference of Ambassadors as demanded in case of supplying list of violations of treaty.	376
Mar. 25 (815)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Proposed request that Germany submit in accordance with art. 260 list of interests in Russia, China, Turkey, Austria, Hungary, and Bulgaria, and that Allied Powers indicate interests they wish to acquire; request for instructions.	377
Mar. 26 (617)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Opinion that Conference of Ambassadors cannot properly demand report from Reparation Commission; instructions to submit information as matter of courtesy.	379
Mar. 31 (652)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone: Assent to proposed request for listing by Germany of interests and indication by Allied Powers of those desired; insistence that any property taken over be disposed of openly at highest price and that German property in China be not transferred.	380
Apr. 9 (951)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis also: Discussion by Reparation Commission of U. S. views regarding procedure and manner of disposing of properties.	381
Apr. 14 (760)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Decision not to furnish list of interests desired. Recommendations regarding method of taking over and disposing of German interests.	381
Apr. 14 (765)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: U. S. interpretation of terms of treaty as regards reparations and duties of Commission; preparation of note for Allies setting forth U. S. views.	382
Apr. 16 (1005)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Delivery of letter to Germany requesting list of securities subject to art. 260. Discussion of best method of disposition of such property.	384
Apr. 17 (799)	<i>To the Ambassador in France (tel.)</i> Davis to Rathbone and Boyden: Delay in preparation of proposed note to Allied Governments; danger of creating precedent for governmental interference with decisions of Reparation Commission; indication of ignoring by Allies of U. S. unofficial views. Request for opinions.	384
Apr. 21 (1034)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Disapproval of sending U. S. note to Allies under present conditions; no tendency to ignore U. S. unofficial views; general improvement in situation.	385

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920 May 3 (876)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Clarification of situation and postponement of suggested note of protest to Allies.	386
May 12 (1138)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Necessity for definiteness and reduction of reparations; French reluctance to adopt this policy; question of U. S. share of reparation payments and possibility of reducing army of occupation.	386
May 18 (1169)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Commission's informal request of Governments interested for report on claims in order that regulations for their presentations may be formulated.	389
May 20 (1178)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Recommendation that no formal reply be made at present to Commission's request for report on U. S. claims. Request for estimated value of property held by Alien Property Custodian.	389
May 22 (986)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Opinion that German liability should be fixed at capacity to pay; discussion of possible U. S. claims against Germany and status of alien property fund in connection with payment thereof.	390
May 28 (1036)	<i>To the Ambassador in France (tel.)</i> For Boyden: Estimated value of property held by Alien Property Custodian; inability to estimate U. S. claims at present.	392
June 3 (886)	<i>From the Ambassador in Great Britain (tel.)</i> Invitation to send U. S. representatives to approaching Allied-German conference at Spa.	393
June 21 (661)	<i>To the Ambassador in Great Britain (tel.)</i> Inadvisability of accepting invitation to send representatives to Spa Conference.	393
June 26 (56)	<i>To the Ambassador in Belgium (tel.)</i> Instructions to report all available information regarding results reached at Hythe and Boulogne conferences.	394
June 30 (91)	<i>From the Ambassador in Belgium (tel.)</i> Report on discussion of disarmament and indemnity percentages at Hythe and Boulogne conferences.	394
June 30 (693)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to repeat to Berlin Department's telegram no. 661; presence of Boyden at Spa in connection with Reparation Commission.	395
July 1 (1344)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Inquiry regarding alleged report of sub-committee, largely American, containing estimated claims of Allied countries and percentages of indemnities.	395

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920		
July 2 (1202)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Dulles' record of estimated claims and informal agreement as to percentages of indemnities; formal Wilson-Lloyd George-Clemenceau agreement of Apr. 30, 1919, on subject (text printed).	396
July 8 (57)	<i>To the Ambassador in Belgium (tel.)</i> Information for Boyden regarding U. S. adherence to agreement of Apr. 30, 1919, in settlement of reparation problems and instructions to transmit to him Ambassador's no. 91 of June 30.	397
July 21 (1427)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Personal impressions of Spa Conference, with information covering coal protocol and reparation percentages agreement. Sent also to Dresel.	398
July 29 (1465)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Summary of coal protocol together with 2d annex (text printed); observations on negotiation and signature of protocol.	403
July 30 (1457)	<i>From the Chargé in France</i> Agreement between Allies for settlement of certain questions as to application of treaties of peace and complementary agreements with Germany, Austria, Hungary, and Bulgaria (text printed).	406
Aug. 2 (1491)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Comments on and interpretation of terms of inter-Allied percentage agreement; U. S. legal rights as to costs of army of occupation.	415
Aug. 5 (1507)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Summary of Boulogne amendment to coal protocol; necessity for German approval of amendment and annexes to protocol; formal statement for record (text printed) of U. S. priority rights regarding army costs.	417
Aug. 13 (1541)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Proposed sale by Lord Inchcape of German ships to British nationals pursuant to provisions of Spa inter-Allied agreement. Recommendation for U. S. approval of method of sale but not valuation established thereby for treaty purposes.	419
Aug. 14 (1556)	<i>From the Chargé in France (tel.)</i> Boyden to Davis: Reparation Commission's approval of British suggestion to appoint an American as chairman of committee for distribution of Upper Silesian coal. Recommendation that appointment be made if Dresel approves.	420
Aug. 18 (1573)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Acceptance by Reparation Commission, with reservation regarding valuation, of proposal for sale of British share of ships to British nationals under direction of Inchcape for account of Great Britain.	420

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS--Continued

Date and number	Subject	Page
1920 Aug. 27 (1616)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Proposal of protest for record (text printed) stating wherein Spa agreement violates terms of treaty and invades prerogative delegated to Reparation Commission. Request for suggestions.	421
Aug. 28 (1420)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Insistence upon formal recognition that evaluation of ex-German ships is under exclusive jurisdiction of Reparation Commission, after which ships may be disposed of by respective governments.	422
Aug. 31 (1428)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Instructions to emphasize principle of valuation of ships by Reparation Commission and Germany's right to receive full credit for value as of date when delivered to Allies.	423
Aug. 31 (1424)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Decision that there be no U. S. official representation on administrative bodies, such as Silesian Coal Commission, which merely carry out stipulations of treaty. (Footnote: Boyden's determination to make no appointment to Silesian Commission.)	423
Aug. 31 (1429)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Proposed redraft of Spa agreement protest (text printed). Explanation of changes.	424
Sept. 1 (1436)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Discussion of terms of coal protocol and recommendations as to its administration including U. S. claims for army costs.	426
Sept. 1 (1437)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Inquiries and comments as to interpretation of certain articles of inter-Allied percentage agreement; insistence that no change be made in treaty without consulting the United States.	428
Sept. 1 (1438)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Further inquiries with view to safeguarding Germany's rights as regards issue of German bonds in connection with coal advances.	429
Sept. 1 (1440)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Approval of efforts to insure that Germany will be credited with full value for deliveries; exposition of U. S. priority claim on reparation funds for army costs.	430
Sept. 3 (1647)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Commission's approval of Inchcape's sale of ships with reservation of right of evaluation for treaty purposes.	431
Sept. 9 (1676)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Reasons why original draft protest on Spa agreement should not be changed. British proposed resolution (text printed) promising protection of interests of parties to Versailles Treaty not signatory to Spa agreement.	431

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920		
Sept. 10 (1681)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Plan of submitting German Spa proposals to Reparation Commission instead of Geneva conference. Desirability of unanimous recommendations for definite figure on reparations based on economic capacity of Germany rather than on damages.	433
Sept. 10 (1682)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Further comments on question of securing payment of cost of army of occupation.	434
Sept. 10 (1683)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Explanation in reply to Department's 1437 regarding certain articles of inter-Allied percentage agreement.	434
Sept. 11 (1685)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Acceptance of British resolution proposed by Bradbury.	435
Sept. 13	<i>From the British Ambassador</i> Memorandum of British Embassy (text printed) inquiring reasons for alleged U. S. opposition to proposed conference on reparations at Geneva between Allies and Germany and regarding alleged U. S. protest against Spa agreement, both advanced as French objections to Geneva conference.	435
Sept. 23	<i>To the British Ambassador</i> Memorandum (text printed) outlining U. S. position regarding Geneva conference and emphasizing U. S. views of importance of Reparation Commission and desirability of fixing German liability at reasonable sum; dropping of U. S. proposed protest on Spa agreement following adoption of British proposal by Reparation Commission.	437
Oct. 6 (1541)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Instructions to transmit to Embassy at London, for information of British Foreign Office, Ambassador's 1681 and following despatch on subject: approval of establishment of definite amount of reparations by Reparation Commission, whether pursuant to Geneva conference or otherwise.	440
Oct. 19 (1535)	<i>From the Chargé in Great Britain (tel.)</i> For Davis: British appreciation of U. S. position as set forth in telegram 1681 from Paris and Department's 1541.	440
Nov. 18 (1933)	<i>From the Ambassador in France (tel.)</i> French note to British Ambassador (text printed) proposing successive conferences on reparations by experts at Brussels, by ministers at Geneva, by Reparation Commission, and finally by Supreme Council.	441
Nov. 19 (1939)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Instructions as to U. S. representation at Brussels in view of change in arrangement by designation of experts by Governments instead of by Reparation Commission.	442
Dec. 3 (1976)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Probable meeting of Brussels conference on Dec. 13; expression of desire by Allies for U. S. participation.	443

GERMANY

NEGOTIATIONS RELATING TO GERMAN REPARATIONS—Continued

Date and number	Subject	Page
1920 Dec. 10 (1684)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Objections to U. S. representation at Brussels conference.	444
Dec. 13 (2006)	<i>From the Ambassador in France (tel.)</i> Foreign Office note (text printed) requesting U. S. unofficial representation at Brussels meeting of Allied experts.	444
Dec. 15 (1700)	<i>To the Ambassador in France (tel.)</i> Instructions to present U. S. refusal to be represented at Brussels conference.	445

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS UNDER THE TREATY OF VERSAILLES

POLICIES OF THE ASSOCIATED GOVERNMENTS—APPOINTMENT OF A DYE EXPERT FOR THE UNITED STATES—ALLIED AGREEMENT OF SEPTEMBER 15, 1919—DISTRIBUTION OF DYES AMONG THE ASSOCIATED POWERS—STATEMENT ON FEBRUARY 10, 1920, OF AMERICAN VIEWS ON THE DELIVERY AND DISTRIBUTION OF DYESTUFFS AND CHEMICAL DRUGS—ARRANGEMENTS BETWEEN THE DEPARTMENT OF STATE AND THE TEXTILE ALLIANCE

1919 Aug. 10 (3601)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Decision of dye experts not to begin operation of annex VI of treaty without U. S. consent but to make German dyes available for French, Italian, and Belgian domestic use. Recommendations for appointment of U. S. dye expert.	445
Aug. 21 (2908)	<i>To the Commission to Negotiate Peace (tel.)</i> Disadvantages of importing dyes through old German agencies; inquiry whether dye sales by Reparation Commission can be anticipated by purchase of vat colors directly from German producers.	447
Aug. 23 (3870)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Concurrence in views as to method of securing dyestuffs; possibility of the United States procuring dyes together with France, Italy, and Belgium prior to operation of annex VI.	447
Aug. 28 (2978)	<i>To the Commission to Negotiate Peace (tel.)</i> Presidential appointment of Dr. Charles H. Hertzy as U. S. dye expert at Paris.	448
Aug. 28 (2984)	<i>To the Commission to Negotiate Peace (tel.)</i> Desire to import 6 months' supply of vat dyes; request for confirmation of understanding that purchases may be effected only through official channels.	448
Sept. 6 (4069)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Discussion of dyestuff situation in Reparation Committee; belief that dyes are procurable only with Committee's approval. Request for U. S. attitude on delivery of dyes in anticipation of annex VI.	449

GERMANY

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS, ETC.—Continued

Date and number	Subject	Page
1919 Sept. 8 (3062)	<i>To the Commission to Negotiate Peace (tel.)</i> For Herty also: Withholding of import licenses for procuring dyes through old German agencies, despite urgent need, in order to await clarification of situation upon arrival of Herty.	451
Sept. 19 (4270)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Telegram from American Embassy, London (text printed), quoting Allied resolution of Sept. 15, 1919, for immediate sale of dyestuffs, to be credited to reparation fund. Anticipation of German opposition. Request for comments on Allied resolution and for suggestions as to future action.	452
Sept. 27 (3262)	<i>To the Commission to Negotiate Peace (tel.)</i> Approval of Allied resolution. Inquiry of actual date of delivery of dyes under plan, in view of urgent need. Willingness to designate Textile Alliance as intermediary between consumers and sellers if plan is put into operation.	454
Oct. 1 (4474)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Proposal to Germany by Interim Reparation Commission of Allied resolution for securing dyestuffs; necessity for permission of Rhineland Commission before impounded stocks can be removed from Germany. Recommendations that purchase be made only through inter-Allied channels.	456
Oct. 3 (3325)	<i>To the Commission to Negotiate Peace (tel.)</i> War Trade Board to Herty: Issuance of allocation certificates authorizing purchase of vat dyes through any commercial channels available; announcement of negotiations for securing dyes at treaty prices.	458
Oct. 6 (4551)	<i>From the Commission to Negotiate Peace (tel.)</i> Herty to Garvan: Agreement with Germany on dye stocks and prices; offer of German cartel to supply additional dyes to the United States to supplement dyes available under agreement. Criticism of W. T. B. announcement regarding allocation certificates and prices. Request for instructions regarding treaty dyes.	459
Oct. 7 (3361)	<i>To the Commission to Negotiate Peace (tel.)</i> For Herty also: Inability of Department or Herty to contract for additional dyes from German cartel; departure of Fleisch, of Textile Alliance, with power to make commitments. Defense of W. T. B. policies.	461
Oct. 8 (4572)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: German acceptance of arrangements proposed by Interim Reparation Commission; arrangements to fill orders through Rhineland Commission; further reasons why W. T. B. action in issuing permits freely was unfortunate.	463
Oct. 9 (3383)	<i>To the Commission to Negotiate Peace (tel.)</i> Explanations for Herty and others regarding W. T. B. action and Department's policies in respect to credits toward reparations; wisdom of Fleisch's handling purchases as private commercial affair.	464

GERMANY

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS, ETC.—Continued

Date and number	Subject	Page
1919 Oct. 12 (4633)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Terms of plan for partial distribution of treaty dyes to Allies and the United States; necessity for definite word of U. S. needs, since no commitments have been made either for treaty dyes or for dyes from German cartel.	466
Nov. 7 (5062)	<i>From the Commission to Negotiate Peace (tel.)</i> Rathbone to W. T. B.: Approval by dye experts of partial distribution pursuant to Allied resolution of Sept. 15; proposal for control commission to check on German dye production; request for statistics on 1913 German dye exports as basis for distribution of remainder of treaty dyes.	468
Nov. 15 (3785)	<i>To the Commission to Negotiate Peace (tel.)</i> W. T. B. Section to Rathbone: Instructions to give notice of acceptance of German cartel offer to Herty. Outline of proposed method of payment including interest.	469
Dec. 24 (1903)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Submission for U. S. approval of definite percentage for each nation in distribution of dyes to be impounded from daily production until end of February 1920.	472
Dec. 29 (9457)	<i>To the Ambassador in France (tel.)</i> For Rathbone: Approval, with modifications, of percentage figures as basis for distributing dyes for limited period; willingness to have modified percentage figures control distribution of remainder of treaty dyes.	473
1920 Jan. 6 (43)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Further modification of percentages and formal acceptance by dye experts; request for U. S. approval in view of concessions received.	474
Jan. 7 (34)	<i>To the Ambassador in France (tel.)</i> For Rathbone: Instructions to transmit letter from Polk to chairman of German peace delegation (text printed) in modification of statement regarding exclusive agency of Textile Alliance for importing dyes.	476
Jan. 13 (94)	<i>To the Ambassador in France (tel.)</i> W. T. B. to Rathbone: Acceptance of percentages for distribution of daily dye production; inquiries regarding number of dyes to be produced and fulfilling of orders for U. S. share of reparation dyes and daily dye production.	477
Jan. 15 (157)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Program for manufacture of dyes by Germany; inability as yet to place orders against daily production percentage; continued placing of orders under Herty option; difficulties in shipping U. S. dyes.	478
Jan. 24 (256)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: No assurance that all German factories will fill cartel orders; suggested ruling binding all Allies not to order dyes beyond amount needed for home consumption.	478

GERMANY

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS, ETC.—Continued

Date and number	Subject	Page
1920		
Jan. 31 (252)	<i>To the Ambassador in France (tel.)</i> W. T. B. and Davis to Rathbone: U. S. approval of plan limiting allotments of dyes to actual domestic needs of Allies and suggestion for additional measures of like nature.	479
Jan. 31 (324)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: German proposal of plan for supplying bona fide needs of Allies while disregarding treaty clauses; subcommission's recommendation for 3 months' trial of plan. Textile Alliance agreement (text printed) for purchase of cartel dyes.	481
Feb. 10 (325)	<i>To the Ambassador in France (tel.)</i> W. T. B. and Davis to Rathbone: Views and recommendations concerning entire question of delivery and distribution of dyestuffs and chemical drugs under paragraphs 1 and 2 of annex VI of Versailles Treaty.	483
Feb. 17 (494)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Comments on Department's 325 regarding delivery and distribution of dyestuffs.	486
Feb. 26 (425)	<i>To the Ambassador in France (tel.)</i> W. T. B. and Davis to Rathbone: Explanations regarding Department's 325 as to rate of exchange, guaranty against reexportation, etc. Inquiries regarding rates of exchange for remaining stock of reparation dyes and for chemical drugs.	488
Mar. 10 (505)	<i>To the Ambassador in France (tel.)</i> W. T. B. to Rathbone: Inquiries regarding prevailing rate of exchange and prices at which commodities under annex VI will become available.	489
Mar. 18 (743)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Reply to inquiries regarding prices and rate of exchange; agreement with Germany (text printed) regarding price of daily production; discussion of reparation credit to be given Germany for dyes and chemicals.	490
Mar. 24 (594)	<i>To the Ambassador in France (tel.)</i> W. T. B. and Davis to Rathbone: U. S. insistence on rights in disposal of 1,200 tons dyestuffs as unused part of allotment; view that nations should only draw sufficient dyestuffs for domestic use.	493
Mar. 29 (851)	<i>From the Ambassador in France (tel.)</i> Rathbone to W. T. B. and Davis: Necessity for immediate, definite, paid-up order if remaining 1,200 tons dyestuffs would be secured to the United States. Efforts to extend time limit for placing order.	494
Apr. 7 (703)	<i>To the Ambassador in France (tel.)</i> W. T. B. to Rathbone for Perret: Plans for Textile Alliance to purchase privately 1,200 tons dyes on certain conditions.	495

GERMANY

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS, ETC.—Continued

Date and number	Subject	Page
1920 Apr. 10	<i>To the Textile Alliance, Inc.</i> Authorization to buy 1,200 tons reparation dyes, available to people of the United States from impounded German stocks. Conditions governing purchase. (Footnote: Telegram no. 723, Apr. 9, to the Ambassador in France, for Boyden and Perret, quoting terms of agreement with Textile Alliance.)	495
June 7 (1080)	<i>To the Ambassador in France (tel.)</i> W. T. B. to Boyden for Perret: Instructions to notify Reparation Commission and cartel of arrangements made for purchase by Textile Alliance of 1,200 tons reparation dyes.	498
June 26 (1170)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden for Perret: Further terms of agreement with Textile Alliance for purchase of 1,200 tons German dyes under supervision of Department of State. Abandonment of plan for drug allocation. (Footnote: Telegram B-91, Aug. 26, to Boyden, outlining Department's policy in respect to options on German drugs.)	499
July 12 (1385)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Recommendation that cash price of dyes be turned over to Reparation Commission as soon as received.	501
July 13 (1242)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Authorization to offer to Reparation Commission cash price of reparation dyes as soon as received.	501
July 30	<i>To the Textile Alliance, Inc.</i> Authorization to undertake, upon certain terms and conditions under three existing options for impounded stock and daily production, purchase of German dyes for U. S. consumption and for foreign resale; Alliance's accountability to Department of State.	501
July 30 (1315)	<i>To the Ambassador in France (tel.)</i> For Boyden: Instructions to give notification (text printed) that Textile Alliance, Inc., of New York has been empowered to order and receive all German dyes to which the United States is entitled from impounded stock and daily production.	505
Nov. 8	<i>To Dr. Areli H. Jacoby</i> Appointment as technical adviser to the Unofficial American Delegation to the Reparation Commission at Paris to represent U. S. interests in reparation dyestuffs.	506
Dec. 29 (1735)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden for Perret: U. S. unwillingness to be committed to any dyestuffs agreement because of uncertainty as to future dye situation.	507

GERMANY

STATUS OF GERMAN SHIPS TAKEN OVER DURING THE WAR BY THE UNITED STATES AND LATIN AMERICAN COUNTRIES

DISPOSITION OF THE UNITED STATES TO SUPPORT THE CLAIMS OF BRAZIL, CUBA, AND URUGUAY TO GERMAN SHIPS IF MADE UNDER THE WILSON-LLOYD GEORGE AGREEMENT OF MAY 1919—CLAIM OF THE UNITED STATES TO TITLE TO GERMAN SHIPS TAKEN IN ITS OWN HARBORS—PURCHASE FROM PERU OF A FORMER GERMAN SHIP BY THE UNITED STATES SHIPPING BOARD

Date and number	Subject	Page
1919 Dec. 23 (9418)	<i>To the Ambassador in France (tel.)</i> For Rathbone also: Brazil's request for U. S. aid in disposition of German ships taken over during war; instructions to support Brazilian claim if made under terms of Wilson-Lloyd George agreement.	507
1920 Jan. 5 (40)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis: Minutes of meeting of Organization Committee of Reparation Commission (text printed) precluding powers from entering into negotiations for purchase of German ships in Brazil before decision is received from Commission; interpretations of Wilson-Lloyd George agreement and annex III of Versailles Treaty. Request for views.	508
Jan. 12 (85)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: U. S. recommendations to Brazil concerning ex-German ships; extent of U. S. support of Brazilian claim; possibility of the United States basing its claim to ex-German ships solely on international law.	510
Jan. 12	<i>To the Brazilian Embassy</i> Disposition of the United States to support claims of Brazil to German ships if made under Wilson-Lloyd George agreement (text printed).	511
Jan. 17	<i>To the Brazilian Chargé</i> U. S. determination to abide by decision of Organization Committee of Reparation Commission regarding ex-German ships seized by Brazil; repeated recommendations that claim be based on Wilson-Lloyd George agreement or international law.	514
Jan. 17 (165)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Belgian message (text printed) inquiring as to proposed sale by the United States of 30 German liners seized during war. View that change of title should not be effected until U. S. position on treaty is settled and matter of ownership established.	516
Feb. 2 (262)	<i>To the Ambassador in France (tel.)</i> For Rathbone: Explanation regarding bids requested for German liners; opinion that the United States acquired good title by seizure of vessels.	516
Feb. 25 (566)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Proposed notice of Maritime Service (text printed) calling upon governments to submit claims of beneficial ownership in enemy vessels; inquiry as to U. S. claims.	517

GERMANY

STATUS OF GERMAN SHIPS TAKEN OVER DURING THE WAR, ETC.—Continued

Date and number	Subject	Page
1920		
Feb. 25 (420)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Legal basis for claim to ships taken under resolution of May 12, 1917; insistence upon unquestionable character of title.	518
Feb. 28 (590)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Acknowledgment of instructions regarding support of U. S. claim to independent title; inquiries as to attitude to be taken regarding Brazilian ships.	519
Mar. 2 (454)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Approval of proposed notice with reservation that claims received which relate to ships seized in U. S. ports should be transmitted to this Government; U. S. legal interest in certain other claims.	520
Mar. 4 (635)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Form of proposed notification (text printed) for U. S. approval. Inquiry as to necessity of presenting claims to Commission in view of position taken.	521
Mar. 8 (488)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Accord with views as to validity of U. S. independent title to ships seized; U. S. attitude to be taken if treaty is ratified; interpretation of art. 297, the basis for Brazilian claim.	522
Mar. 8 (490)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Rathbone: Approval of proposed notification with change in wording; further comment and explanation of U. S. position regarding ships. (Footnote: Telegram of Apr. 9 from Rathbone announcing publication of notice regarding filing claims against ex-German ships.)	524
Mar. 9	<i>To the Cuban Minister</i> Discussion of status of ex-German ships acquired by Cuba, and suggestion that Cuba adhere to Wilson-Lloyd George agreement in order to participate in advantages thereof.	525
Mar. 12 (517)	<i>To the Ambassador in France (tel.)</i> For Rathbone also: Information as to U. S. attitude toward acquiring by Brazil of title to vessels as reprisal for sinking by Germany of Brazilian vessels, and diplomatic support to be given.	528
Mar. 20 (763)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Postponement of consideration of Brazilian ship question until arrival of Brazilian delegates. (Footnote: Conclusion of negotiations between France and Brazil, ships being recognized as property of Brazil on basis of art. 297 of treaty.	529
Apr. 16 (991)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis also: Inquiry as to U. S. policy regarding reported sale of ex-German ships and regarding German request for return of ships between 1,000 and 1,600 tons under treaty provisions. Question of authenticity of list of U. S. shipping losses as submitted to Maritime Transport Executive.	529

GERMANY

STATUS OF GERMAN SHIPS TAKEN OVER DURING THE WAR, ETC.—Continued

Date and number	Subject	Page
1920 Apr. 23 (1046)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis also: French full acceptance of Wilson-Lloyd George agreement, and its embodiment in Anglo-French shipping agreement.	530
Apr. 24 (839)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Boyden: Information regarding ships sold by Shipping Board and position to be taken in regard thereto; incomplete figures regarding ship losses.	530
May 7 (1109)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis also: Message from Green of Maritime Service in London (text printed) announcing exclusion from ships subject to return to Germany of ex-German ships between 1,000 and 1,600 tons held in the United States.	531
May 8 (1118)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Recommendation for acceptance of Wilson-Lloyd George agreement to facilitate handling of ex-German tonnage.	532
May 12 (919)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Inability to obtain congressional action at present regarding agreement; reasons why U. S. delayed decision should not affect Allied action in settling ship question.	532
May 15 (1161)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Concurrence in views regarding possibility of immediate allocation of ships by Allies; acquiescence in delay of action on Wilson-Lloyd George agreement.	533
May 29 (1218)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Suggested form of statement to be presented to Commission (text printed) regarding protection of U. S. interests in distribution of ships.	534
June 7 (1077)	<i>To the Ambassador in France (tel.)</i> Department and Davis to Boyden: Approval of statement to be presented to Commission with slight change.	535
June 16 (1124)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Instructions to ascertain status of Uruguayan claims filed with Commission in view of Uruguay's request for U. S. support.	535
June 23 (94)	<i>To the Chargé in Cuba (tel.)</i> Inquiry regarding report that Cuba has taken over ex-German ships under art. 297 of treaty allegedly with U. S. support.	536
June 24 (1321)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Postponement of decision as to Uruguayan claim to ownership of ex-German ships pending full discussion of entire question; arrangements for U. S. representative to follow case.	536

GERMANY

STATUS OF GERMAN SHIPS TAKEN OVER DURING THE WAR, ETC.—Continued

Date and number	Subject	Page
1920 July 1 (1189)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Instructions to take favorable attitude toward Uruguayan claim if made under Wilson-Lloyd George agreement. (Footnote: Report on Aug. 3, 1922, that these vessels have been dropped from consideration by Commission.)	537
July 9 (107)	<i>To the Chargé in Cuba (tel.)</i> Instructions to investigate alleged statement of President of Cuba that the United States would support Cuban claim to ex-enemy ships under art. 297.	537
July 13 (263)	<i>From the Chargé in Cuba</i> Denial by President Menocal of alleged statement regarding U. S. views on Cuban seizure of ex-enemy ships; explanation of Cuban position regarding ex-German ships.	538
Aug. 27 (1408)	<i>To the Ambassador in France (tel.)</i> For Boyden: Desire of Shipping Board to purchase the <i>Callao</i> , German ship taken over by Peru. Inquiry whether action has been taken by Commission in regard to ships seized by Peru.	539
Sept. 21 (1736)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis: Green's opinion (text printed) as to status of <i>Callao</i> ; belief that ex-enemy vessels seized by South American countries will be permitted to be held by those countries.	540
Oct. 1 (1528)	<i>To the Ambassador in France (tel.)</i> For Boyden: Further information regarding charter, sale price, and title of <i>Callao</i> . Request for views.	540
Oct. 22	<i>To the U. S. Shipping Board</i> Suggestion that, in purchase of <i>Callao</i> , guaranty of title be given, so worded as to indicate U. S. intention not to interfere in case claims are made by Allies.	541
Oct. 30 (1596)	<i>To the Ambassador in France (tel.)</i> Davis to Boyden: Transfer by Peru of ex-German ships to Emergency Fleet Corp. under guaranty. Request for opinion as to whether Peru should now present claim to title. (Footnote: Telegram of July 15, 1921, from Boyden, announcing Commission's decision excluding ex-German ships in Peru from cession under Versailles Treaty.	542

GERMANY

TANK SHIPS OF THE DEUTSCH-AMERIKANISCHE PETROLEUM GESELLSCHAFT

CLAIM BY THE STANDARD OIL COMPANY OF NEW JERSEY TO BENEFICIAL OWNERSHIP—PROVISIONAL EXEMPTION OF THE TANKERS FROM ALLOCATION AMONG THE ASSOCIATED POWERS; CANCELTION OF THE EXEMPTION BY THE SUPREME COUNCIL—REFUSAL BY THE UNITED STATES SHIPPING BOARD TO RELEASE THE "IMPERATOR" AND SEVEN OTHER GERMAN SHIPS PENDING A DECISION ON THE TANKERS; RELEASE OF THE EIGHT GERMAN SHIPS—PROPOSALS FOR A PROVISIONAL ALLOCATION OF THE TANKERS—AGREEMENT OF JUNE 7, 1920, BETWEEN THE REPARATION COMMISSION AND THE UNITED STATES

Date and number	Subject	Page
1919 Aug. 13 (9028)	<i>To the Ambassador in France (tel.)</i> Situation with regard to 9 tankers lying in German ports and exempted from allocation by Brussels Agreement because registered in name of Deutsch-Amerikanische Petroleum Gesellschaft, a German subsidiary of Standard Oil Co. of New Jersey, which claims beneficial ownership. (Sent also to London.)	542
Sept. 16 (3151)	<i>To the Commission to Negotiate Peace (tel.)</i> Instructions to endeavor to secure dispatch of D. A. P. G. steamers to the United States for transporting oil to Germany, notwithstanding withdrawal of exemption from allocation by Allied Naval Armistice Commission as reported by U. S. representative (text printed).	544
Sept. 16 (3145)	<i>To the Commission to Negotiate Peace (tel.)</i> Instructions to press for decision by Supreme Council to permit utilization of tankers pending final disposition under treaty in view of Brussels Agreement and decision of Scapa Flow committee.	545
Sept. 23 (3214)	<i>To the Commission to Negotiate Peace (tel.)</i> Instructions to urge that Supreme Council overrule decision of Supreme Economic Council that tankers be sent to Firth of Forth for allocation.	546
Sept. 28 (4409)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Decision of Supreme Council (text printed) canceling exemption allowed by Brussels Agreement, permitting ships to make one voyage, and reserving question of allocation for Reparation Commission.	547
Sept. 30 (3286)	<i>To the Commission to Negotiate Peace (tel.)</i> Objections to decisions of Supreme Council as to disposition of tank steamers. Desire for reconsideration by Supreme Council with view to their exemption or provisional allocation to the United States.	548
Sept. 30 (4447)	<i>From the Commission to Negotiate Peace (tel.)</i> From Polk: Lack of justification for action of Shipping Board in refusing to turn over <i>Imperator</i> and other ships pending release of D. A. P. G. tankers. Request for information on situation.	549
Oct. 6 (3360)	<i>To the Commission to Negotiate Peace (tel.)</i> Conversations with British Embassy regarding detention of <i>Imperator</i> and other ships and question of D. A. P. G. tankers. Instructions to urge settlement of tanker situation and to have tankers held in Hamburg pending decision.	550

GERMANY

TANK SHIPS OF THE DEUTSCH-AMERIKANISCHE PETROLEUM GESELLSCHAFT—CON.

Date and number	Subject	Page
1920		
Mar. 15 (712)	<i>From the Ambassador in France (tel.)</i> Rathbone to Davis also: Nonreceipt of alleged French protest. French and Italian attitude regarding operation of tankers. Submission of U. S. counter-proposals to respective governments.	589
May 14 (934)	<i>To the Ambassador in France (tel.)</i> For Boyden: Extent of concessions which can be made in response to Allied suggested changes in U. S. counter-proposal.	590
May 19 (1172)	<i>From the Ambassador in France (tel.)</i> Boyden to Davis also: Comments on concessions offered by Department; suggestion acceptable to British (text printed) for partial modification of U. S. counter-proposal.	592
May 26 (1006)	<i>To the Ambassador in France (tel.)</i> For Boyden: Acceptance of suggested modification with slight change; further discussion of terms of counter-proposal.	595
June 11 (1677)	<i>From the Ambassador in France</i> Agreement between Reparation Commission and the United States in regard to tankers of the D. A. P. G. (text printed).	597

GREAT BRITAIN

RELEASE OF AMERICAN GOODS SEIZED BY GREAT BRITAIN DURING THE WAR

PRELIMINARY NEGOTIATIONS BETWEEN THE CONSUL GENERAL AT LONDON AND THE BRITISH PROCURATOR GENERAL—AMERICAN PROPOSALS OF DECEMBER 13, 1917, JULY 12, 1918, AND AUGUST 28, 1919—BRITISH CONSENT TO RELEASE IN "PROPER" CASES—AMERICAN RESERVATIONS REGARDING THE ORDER IN COUNCIL OF MARCH 11, 1915—REPORT OF THE SECRETARY OF STATE TO THE PRESIDENT, MARCH 3, 1921

1917		
May 29	<i>To the Consul General at London (tel.)</i> Request for list of cases pending in prize court involving U. S. interests and for views as to procedure for equitable adjustment in view of U. S. entry into war.	601
June 14	<i>To the Consul General at London (tel.)</i> Instructions to include in report cases in hands of procurator general which have not been presented to prize court.	601
June 15 (4321)	<i>From the Consul General at London</i> Transmittal of partial list of pending cases; suggestions as to procedure for liquidation; procurator general's objection to any general scheme for effecting releases without waiver of claims for damages.	601
Sept. 11 (4753)	<i>From the Consul General at London</i> Written negotiations with procurator general (excerpts printed) reiterating U. S. refusal to waive claims for damages in connection with release of parcels of needles held by British prize court.	602

LIST OF PAPERS

LVII

GREAT BRITAIN

RELEASE OF AMERICAN GOODS, ETC.—Continued

Date and number	Subject	Page
1917 Sept. 25 (4822)	<i>From the Consul General at London</i> Complaints against British refusal to extend to the United States same treatment accorded Allies in matter of detained goods and against narrow view of prize court principles taken by authorities; renewal of suggestions in no. 4321 for settlement of pending cases.	606
Oct. 11	<i>From the Consul General at London (tel.)</i> Message from admiralty marshal (text printed) affirming British willingness, if requested, to give same advantages to U. S. interests as are afforded Allied Governments concerning release of seized goods.	608
Nov. 2 (5026)	<i>From the Consul General at London</i> Note from procurator general's office (text printed) transmitting list of U. S. cases pending in British prize court.	609
Nov. 20	<i>To the Consul General at London (tel.)</i> Instructions to report conditions under which releases of goods have been made to Allies.	609
Nov. 21 (2240)	<i>To the Consul General at London</i> Adherence to views of note of Oct. 21, 1915, and refusal to waive right to claim damages in connection with release of goods; willingness to permit U. S. citizens to waive rights if they so desire.	609
Nov. 22	<i>From the Consul General at London (tel.)</i> Method of liquidating cases when French goods are seized; British suggestion for joint committee to liquidate outstanding cases.	610
Dec. 13 (5601)	<i>To the Ambassador in Great Britain</i> Instructions to seek equitable and expeditious settlement regarding U. S. goods seized by Great Britain.	611
1918 Jan. 9 (5373)	<i>From the Consul General at London</i> Correspondence with procurator general (texts printed) on conditions attached to release of needles, indicating British refusal to consider claims other than those advanced at prize court hearing, and U. S. objection thereto.	612
Feb. 27 (2415)	<i>To the Consul General at London</i> View that it may not be British purpose to make release of goods contingent upon agreement to waive right of invoking diplomatic intervention.	614
May 31 (10360)	<i>From the Chargé in Great Britain (tel.)</i> British readiness to release U. S. goods upon intimation that no claims would be advanced in connection therewith, based on alleged invalidity of Order in Council of Mar. 11, 1915.	614
July 12 (180)	<i>To the Chargé in Great Britain (tel.)</i> Instructions on U. S. views regarding validity of Order in Council of Mar. 11, 1915; willingness to agree that no subsequent claims will be made in particular cases where owners agree to British conditions.	616

GREAT BRITAIN

RELEASE OF AMERICAN GOODS, ETC.—Continued

Date and number	Subject	Page
1918		
Aug. 15 (786)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to address communication to Foreign Office based on Department's 180.	617
Aug. 27 (1418)	<i>From the Ambassador in Great Britain (tel.)</i> Transmittal of Foreign Office reply to Department's 180, with request for instructions.	617
Sept. 3 (9821)	<i>From the Ambassador in Great Britain</i> Foreign Office note (text printed) offering to release certain U. S. goods if accepted in full discharge of any claims that might be made in prize court.	617
Sept. 21	<i>To the Consul General at London (tel.)</i> Instructions to ascertain steps required to establish ownership of goods with view to effecting delivery at earliest possible moment.	619
Sept. 28	<i>From the Consul General at London (tel.)</i> Suggestions as to best method of establishing title to U. S. goods detained by British and of securing delivery.	619
Oct. 4	<i>To the Consul General at London (tel.)</i> Approval of disposing of each case by procurator general with individual guarantee by U. S. owner. Inquiry whether proposed settlement extends to goods other than those on list, and as to funds collected.	620
Oct. 10	<i>From the Consul General at London (tel.)</i> Limitation of proposal to goods or proceeds on list. Passage of title to enemy in cases where remittances have been made.	620
Oct. 19 (6942)	<i>From the Consul General at London</i> Refusal of procurator general to reimburse U. S. owners for money deposited with prize court for invoice value of detained goods where payment had been made in Austria or Germany as well.	621
1919		
Jan. 27 (7352)	<i>From the Consul General at London</i> Correspondence with procurator general's office (texts printed) disclosing disinclination of British to refund deposits made in prize court for release of U. S. goods, despite close of war, holding <i>Stigstad</i> case irrelevant.	623
Feb. 27	<i>From the Consul General at London (tel.)</i> Inquiry as to accuracy of procurator general's understanding that the United States agrees that release of goods to claimants precludes any further claims.	627
Mar. 11	<i>To the Consul General at London (tel.)</i> Instructions to request of Embassy a copy of Department's 180 giving U. S. attitude.	628
Aug. 16 (8267)	<i>From the Consul General at London</i> Information regarding disposal of mail detained in Great Britain.	628

GREAT BRITAIN

RELEASE OF AMERICAN GOODS, ETC.—Continued

Date and number	Subject	Page
1919 Aug. 28 (5885)	<i>To the Ambassador in Great Britain (tel.)</i> Note for Foreign Office (text printed) urging release of U. S.-owned goods and moneys detained by British authorities, quoting Viscount Grey's note of Mar. 15, 1915, in support of claim.	629
Nov. 21 (6200)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to propose amicable settlement with U. S. claimants out of court as means of promoting good feeling in commercial circles.	630
Nov. 21	<i>To the Consul General at London (tel.)</i> Instructions to cable list of all pending cases involving U. S. interests in vessels or cargoes seized and to state best method of effecting prompt settlement.	631
Nov. 26	<i>From the Consul General at London (tel.)</i> Reply to request for complete list of cases; suggestion that Foreign Office be requested to urge procurator general to make settlement immediately on equitable bases.	631
Dec. 1	<i>To the Consul General at London (tel.)</i> Information that matter of deposits has been taken up with Foreign Office. Request for list of cases and amounts deposited.	631
Dec. 10 (3510)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Office note (text printed) consenting in proper cases to release of goods or proceeds and of deposits, with understanding that acceptance will effect final settlement of claims.	632
Dec. 29 (8949)	<i>From the Consul General at London</i> Plan for release of east-bound goods upon presentation of necessary documents and of west-bound goods and deposits upon evidence of payment having been made.	632
1920 Jan. 14 (9036)	<i>From the Consul General at London</i> Representations to procurator general and reply (texts printed) regarding application to prize court for settlement of case of A. Lorsch & Co., Inc., contrary to agreement with Foreign Office.	633
Jan. 17	<i>From the Consul General at London (tel.)</i> Efforts to have procurator general take directions from president of prize court and make precedent of Lorsch case in order to facilitate informal settlement in similar cases.	634
Feb. 2	<i>To the Consul General at London (tel.)</i> Inquiry whether procurator general has obtained instructions from president of prize court on Lorsch case applicable to similar claims.	635
Feb. 5	<i>From the Consul General at London (tel.)</i> Efforts to obtain views of president of prize court prior to decision of test case. Explanation of British reference to peace treaty in connection with settlement of title to property.	635

GREAT BRITAIN

RELEASE OF AMERICAN GOODS, ETC.—Continued

Date and number	Subject	Page
1920 Feb. 9 (127)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to seek expeditious method of settling claims without recourse to prize court in cases where principles involved are similar.	635
Mar. 2 (9272)	<i>From the Consul General at London</i> Reply of president of prize court (text printed) indicating early release for U. S. goods not "enemy owned" and possibility of release of "enemy owned" goods following few test cases. Procurator general's determination to press for further definition of "enemy owned", with consequent delay.	636
Mar. 19 (480)	<i>From the Chargé in Great Britain (tel.)</i> Foreign Office note (text printed) replying to Ambassador's representations regarding detention of U. S.-owned goods, giving assurance of release upon receipt of documentary proof of U. S. ownership.	639
Mar. 23 (646)	<i>To the Chargé in Great Britain</i> Instructions to inquire whether detained goods, pronounced enemy-owned according to law of prize, are releasable if proved to be U. S. property according to municipal law, and to present claim of Crucible Steel Co.	639
June 4	<i>From the Consul General at London (tel.)</i> Prize court arrangement for speedy action on three selected cases as precedent with view to concluding outstanding business.	641
July 15	<i>From the Consul General at London (tel.)</i> Hearing of test cases in prize court; court's decision to release proceeds under conditions to be announced later. Advisability of U. S. claimants applying promptly for reimbursement.	641
July 23 (9946)	<i>From the Consul General at London</i> Press report of judgment of prize court in cases of the <i>United States</i> and other vessels (text printed), permitting release of U. S. goods or proceeds subject to payment of proper expenses and insurance.	641
Sept. 17 (3441)	<i>From the Chargé in Great Britain</i> Foreign Office note (text printed) announcing decision of test cases on basis of municipal law, but excluding Crucible Steel case from scope of decision, and assuming that concessions will be accepted as settlement of all questions regarding Order in Council of Mar. 11, 1915.	643
Dec. 27 (1103)	<i>To the Ambassador in Great Britain</i> U. S. willingness to accept concessions as settlement of some but not all questions arising under Order in Council.	645
1921 Mar. 3	<i>To President Wilson</i> Report listing measures taken on behalf of U. S. citizens growing out of interference by British authorities with U. S. commerce, submitted in reply to Senate Resolution 438 (text printed).	646

GREAT BRITAIN

CLAIM AGAINST THE UNITED STATES ARISING OUT OF THE DELAY IN DELIVERING THE "IMPERATOR" AND OTHER EX-GERMAN SHIPS; PROPOSAL OF THE UNITED STATES FOR CONCURRENT EXAMINATION OF AMERICAN CLAIMS AGAINST GREAT BRITAIN

Date and number	Subject	Page
1920 July 15 (436)	<i>From the British Ambassador</i> British claim in respect of cost of crews' wages and subsistence and reconditioning vessels of <i>Imperator</i> group while detained by the United States.	648
Aug. 18	<i>To the British Ambassador</i> Acknowledgment of receipt of British claim and inquiry whether British Government is now ready to adjust U. S. claims against Great Britain arising from numerous detentions of vessels and interrupted voyages.	648

EXPLOITATION OF PETROLEUM IN PALESTINE AND MESOPOTAMIA

REPRESENTATIONS BY THE UNITED STATES ON BEHALF OF EXISTING AMERICAN INTERESTS IN PALESTINE—SAN REMO AGREEMENT, APRIL 24, 1920—EXPOSITION BY THE GOVERNMENT OF THE UNITED STATES OF ITS VIEWS ON THE OBLIGATIONS OF THE BRITISH GOVERNMENT AS MANDATORY TO APPLY THE PRINCIPLE OF EQUAL TREATMENT TO THE NATIONALS OF THE UNITED STATES

1920 Feb. 4 (104)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to cite alleged inequalities and to obtain British assurances of nondiscrimination in operation of oil policy in Palestine and Mesopotamia.	649
Mar. 17 (280)	<i>To the Chargé in Great Britain (tel.)</i> Standard Oil rights in Palestine; instructions to urge that U. S. rights be protected in proposed Turkish treaty and that the United States be informed of negotiations.	650
June 18 (3061)	<i>From the Ambassador in Great Britain</i> Note sent to Foreign Office (text printed) alleging advantages to British interests and suggesting principles to be applied in occupied or mandated regions to assure equality in law and in fact to commerce of all nations.	651
July 26 (3193)	<i>From the Ambassador in Great Britain</i> Memorandum of agreement at San Remo between French and British (text printed) regarding petroleum interests in certain countries.	655
July 26 (785)	<i>To the Ambassador in Great Britain (tel.)</i> Note for Foreign Office (substance printed) restating views expressed on May 12 and making representations regarding San Remo Agreement.	658
July 30 (805)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to repeat Department's 785 to Paris Embassy for oral transmission to Foreign Office of such parts as deemed advisable.	659
Aug 4	<i>From the Consul General at Berlin</i> Historical antecedents of the concession granted the Turkish Petroleum Co. in vilayets of Mossoul and Baghdad, and note of Grand Vizier (text printed) consenting to said lease.	660

GREAT BRITAIN

EXPLOITATION OF PETROLEUM IN PALESTINE AND MESOPOTAMIA—Continued

Date and number	Subject	Page
1920 Aug. 11 (1205)	<i>From the Ambassador in Great Britain (tel.)</i> British note (text printed) setting forth policy in mandated territory and categorically denying preferential treatment; criticism of U. S. oil policy; attitude toward U. S. mandate principles and concurrence in views that consideration must be given rights legally acquired before war.	663
Aug. 13 (1520)	<i>From the Chargé in France</i> <i>Aide mémoire</i> sent to Foreign Office (text printed) expressing U. S. disapproval of San Remo Agreement.	667
Nov. 23 (1040)	<i>To the Ambassador in Great Britain</i> Note for Foreign Office (text printed) replying to British note, setting forth U. S. views on mandates, requesting to be consulted on drafting of mandates for Mesopotamia and Palestine, and continuing to object to San Remo Agreement.	668
Dec. 1 (681)	<i>To the Ambassador in France</i> Instructions to transmit to Foreign Office copy of Department's note of Nov. 20 to Great Britain and to request interpretation of tripartite agreement signed at Sèvres, in light of above-mentioned note. (Similar instructions to Ambassador in Italy.)	674
1921 Jan. 14 (2036)	<i>From the Ambassador in France</i> Foreign Office note (text printed) setting forth French point of view in defense of tripartite agreement signed at Sèvres.	674

CONSULAR JURISDICTION IN PALESTINE: REFUSAL BY THE UNITED STATES TO ACQIESCE IN THE JURISDICTION OF THE LOCAL BRITISH COURTS OVER AMERICAN CITIZENS

1920 Oct. 16	<i>From the High Commissioner in Turkey</i> Instructions sent to consul at Jerusalem (text printed) asserting continuance in effect of capitulations in Palestine until the United States agrees to their abrogation or modification. Request for confirmation of views.	675
Dec. 9 (1214)	<i>To the Ambassador in Great Britain (tel.)</i> Information regarding arrest and detention for trial by local court in Jerusalem of Dana, U. S. citizen, for running over and killing Jewish woman. Instructions to request that prisoner be delivered to U. S. consul, who has been instructed to hold Dana for consular court.	676
Dec. 30 (3985)	<i>From the Ambassador in Great Britain</i> British note (text printed) inquiring whether U. S. Government objects to trial of Dana by British provisional civil administration of Palestine pending coming into force of treaty and mandate, which will end capitulations.	677
1921 Jan. 5 (11)	<i>From the Ambassador in Great Britain (tel.)</i> Report that Dana was not to blame for accident and that case will be dropped.	678

GREAT BRITAIN

THE ANGLO-JAPANESE ALLIANCE: REPRESENTATIONS BY THE UNITED STATES GOVERNMENT TO THE BRITISH GOVERNMENT REGARDING A POSSIBLE RENEWAL OF THE ALLIANCE

Date and number	Subject	Page
1919 Oct. 2 (6038)	<i>To the Ambassador in Great Britain (tel.)</i> Inquiries as to rumors of negotiations for renewal of Anglo-Japanese Alliance and as to British attitude toward Japan's "special interests" in eastern Asia. (Repeated to the Ambassador in Japan for information.)	679
1920 Undated [Rec'd Mar. 25] (65)	<i>From the Chargé in China (tel.)</i> Report from Chinese Minister in Great Britain that Japanese envoys are negotiating for renewal of Anglo-Japanese Alliance. (Repeated to the Chargé in Great Britain.)	679
Apr. 28 (694)	<i>From the Ambassador in Great Britain (tel.)</i> Indecision as to continuing of Anglo-Japanese Alliance.	680
May 10 (471)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions informally to suggest modification of terms of Alliance, if renewed, to indicate that it is not aimed at America and that it will safeguard rights of China and "open door" policy.	680
May 21 (833)	<i>From the Ambassador in Great Britain (tel.)</i> Information that suggested modification of terms of Alliance will be presented informally.	681
May 24 (543)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to Ambassador to use his own discretion in urging unofficially Department's suggestions.	682
June 7 (900)	<i>From the Ambassador in Great Britain (tel.)</i> Presentation of Department's suggestions; assurance that they will be considered and that Alliance will not be aimed at the United States.	682
June 11 (590)	<i>From the Chargé in Japan (tel.)</i> Summary of press comments on question of renewal of Anglo-Japanese Alliance.	682
June 22 (150)	<i>To the Minister in China (tel.)</i> Instructions to verify report of China's formal protest to Great Britain against renewal of Anglo-Japanese Alliance.	684
June 28 (150)	<i>From the Minister in China (tel.)</i> Chinese protest against mention of China in Anglo-Japanese Alliance when renewed.	685
July 10 (9887)	<i>From the Consul General at London</i> Statement in Parliament by Bonar Law (text printed) that negotiations are not being continued for renewal of Anglo-Japanese Alliance.	685
July 26 (364)	<i>From the Chargé in Japan (tel.)</i> Japanese <i>communiqué</i> (text printed) stating Japan and Great Britain have notified League that the Anglo-Japanese Alliance, if renewed, will not be inconsistent with Covenant of League of Nations.	685

GREAT BRITAIN

EMPLOYMENT OF BRITISH CABLE SHIPS IN ILLEGAL ATTEMPT BY THE WESTERN UNION TELEGRAPH COMPANY TO LAND CABLES ON FLORIDA COAST

REFUSAL BY THE UNITED STATES GOVERNMENT TO GRANT THE WESTERN UNION TELEGRAPH COMPANY PERMISSION TO LAND A CABLE AT MIAMI FROM BARBADOS—
EFFORTS BY THE BRITISH AUTHORITIES TO DETER BRITISH CABLE SHIPS FROM ATTEMPTING TO LAND THE COMPANY'S CABLE ON THE FLORIDA COAST

Date and number	Subject	Page
1920		
July 17	<i>To President Wilson</i> Recommendation that War, Navy, and Justice Departments cooperate to prevent illegal landing by Western Union of cable at Miami for purpose of connecting with British cable at Barbados.	686
July 20	<i>From President Wilson</i> Authorization for cooperation of Departments to prevent Western Union from landing cable pending discussion of whole question in international conference on communications.	687
July 30	<i>To the British Ambassador</i> Request that British steamer <i>Colonia</i> be warned against landing cable at Miami for Western Union as license has been withheld.	687
July 31	<i>Memorandum by Mr. William R. Vallance of the Office of the Solicitor for the Department of State</i> Conference of officials of Department designated by the President to discuss steps to prevent landing of Western Union cable at Miami.	688
Aug. 5	<i>Memorandum by Mr. P. L. Boal of the Office of the Third Assistant Secretary of State</i> Interview with member of British Embassy staff, disclosing British orders to <i>Colonia</i> to cease all operations pending instructions from Foreign Office.	690
Aug. 5	<i>To the Secretary of the Navy</i> Request that British ship be prevented from connecting cable with any existing cables within 3-mile limit and that any cable landing at Miami or Key West be likewise prevented.	691
[Aug. 7]	<i>Memorandum by the Third Assistant Secretary of State</i> Telephone conversation with British Chargé reaffirming inadvisability of laying cable inside or outside U. S. territorial waters.	693
Aug. 9	<i>From the Acting Secretary of the Navy</i> Compliance of <i>Colonia</i> with wishes of British Ambassador. Request for decision as to disposition of American tug, <i>Robert Clowry</i> , which carries enough cable to extend from shore to beyond 3-mile limit.	694
Aug. 10	<i>To the Secretary of the Navy</i> Opinion, pursuant to directions by the President, that landing of shore-end of cable by <i>Robert Clowry</i> should be prevented.	694
[Aug. 16]	<i>Memorandum by the Third Assistant Secretary of State</i> Conference between officials of Departments interested regarding activities of <i>Colonia</i> in proceeding to lay cable outside territorial waters and U. S. precautions to maintain <i>status quo</i> at Miami.	695

GREAT BRITAIN

EMPLOYMENT OF BRITISH CABLE SHIPS, ETC.—Continued

Date and number	Subject	Page
1920 Dec. 11	<i>To the Secretary of the Navy</i> Department's consideration of proposed laying of two cables by Cuban-American Telephone & Telegraph Co. and Commercial Cable Co. between Florida and Cuba; warning that cableship <i>Stephan</i> also has on board 205 miles of cable for Western Union.	696
Dec. 11	<i>From the Secretary of the Navy</i> Recommendation that British Government be requested to direct cableship <i>Stephan</i> not to lay Western Union cable within territorial waters of the United States without express permission.	697
Dec. 20	<i>Memorandum by the Third Assistant Secretary of State</i> Request for British guaranty that Western Union cable will not be laid within U. S. territorial waters, suggesting its removal from <i>Stephan</i> in England.	697
Dec. 29 (841)	<i>From the Secretary of the British Embassy</i> Assurance that <i>Stephan</i> will not carry cable for Western Union.	698
Dec. 30	<i>To the Secretary of the Navy</i> Notice that <i>Stephan</i> will not carry objectionable cable and that permit has been given Cuban-American Telephone & Telegraph Co. to lay cables connecting Key West with Habana.	698

AMERICAN ALLEGATIONS OF INTERFERENCE WITH CABLEGRAMS PASSING THROUGH GREAT BRITAIN

1920 Nov. 2 (713)	<i>From the British Ambassador</i> Denial of allegations of British interference with U. S. cablegrams and request for specific complaints in view of influence of allegations on allocation of ex-German cables at Communications Conference.	699
Dec. 21	<i>To the British Ambassador</i> Transmittal of confidential memorandum of specific complaints; importance of keeping cable facilities to and from the United States free from foreign censorship and control.	700
1921 Mar. 10 (209)	<i>From the British Ambassador</i> Explanations regarding alleged delay in transmission of cablegrams through Great Britain and justification of British system. Request for permission to publish correspondence. (Footnote: Publication of correspondence by Great Britain in 1921.)	701

GREECE

RECALL OF KING CONSTANTINE

DEFEAT OF VENIZELOS AT THE POLLS, AND PLEBISCITE CALLING FOR THE RETURN OF KING CONSTANTINE—QUESTION OF THE RECOGNITION OF KING CONSTANTINE BY THE UNITED STATES

Date and number	Subject	Page
1920 Oct. 27 (234)	<i>From the Minister in Greece (tel.)</i> Summons to throne of Prince Paul, younger brother of deceased King, on condition that Constantine and son renounce throne; arrangement for temporary regency.	705
Nov. 2 (241)	<i>From the Minister in Greece (tel.)</i> Acceptance of throne by Prince Paul conditional upon approval in plebiscite. Request of Venizelists for vote of confidence at coming elections instead, as approval of invitation to Prince Paul.	705
Nov. 15 (250)	<i>From the Minister in Greece (tel.)</i> Defeat of Venizelos at elections and his retirement; probable recall of British Minister if Constantine returns to power.	706
Nov. 18 (253)	<i>From the Minister in Greece (tel.)</i> Semirevolution in preparation for recall of Constantine as King; British and French disapproval of return; request for instructions as to U. S. policy.	706
Dec. 6 (263)	<i>From the Minister in Greece (tel.)</i> Victory of Constantine in plebiscite; abstention of Venizelists and Labor Party from voting.	708
Dec. 21 (271)	<i>From the Minister in Greece (tel.)</i> Return of Constantine amid popular enthusiasm; announcement of his policies; attitude of foreign missions.	708
Dec. 28	<i>To President Wilson</i> Information regarding political situation in Greece; inquiry as to attitude to be taken and whether further advances should be made to Greece by U. S. Treasury.	709
Dec. 30 (106)	<i>To the Minister in Greece (tel.)</i> Approval of extending recognition to King Constantine upon assumption of office.	710

NOTICE GIVEN BY THE GREEK GOVERNMENT OF THE DENUNCIATION OF THE TREATY OF 1837 WITH THE UNITED STATES; NOTICE WITHDRAWN—AGREEMENT AMENDING ARTICLE XVII OF THE TREATY

1919 [Feb. 28] (416)	<i>From the Greek Chargé</i> Notice of denunciation of commercial treaty of 1837, effective as of Mar. 1, 1920, with proposal that it be extended for periods of 3 months thereafter until peace is signed and other conventions concluded.	710
Mar. 25	<i>To the Greek Chargé</i> Acknowledgment of denunciation; inability of Executive to agree to extension of treaty for 3-month periods after its termination.	712
Oct. 28	<i>To the Greek Chargé</i> Suggestion that notice of denunciation be withdrawn so that treaty shall remain in force until 12 months after new notice is given or until its provisions are modified by new treaty.	713

LIST OF PAPERS

LXVII

GREECE

NOTICE GIVEN BY GREEK GOVERNMENT OF THE DENUNCIATION OF THE TREATY OF 1837, ETC.—Continued

Date and number	Subject	Page
1920 Jan. 23 (4)	<i>From the Greek Minister</i> Notice withdrawing denunciation of treaty of 1837.	714
Jan. 24 (82)	<i>From the Greek Minister</i> Notice of termination of treaty of 1837, effective Jan. 26, 1921.	714
Feb. 10	<i>To the Greek Minister</i> Acknowledgment of cancelation of former denunciation of 1837 treaty, and acceptance of its subsequent denunciation, effective as of Jan. 26, 1921.	715
May 18	<i>To the Greek Minister</i> Proposal of negotiations for brief treaty amending art. XVII of treaty of 1837 by extending latter treaty until replaced or until 3 months after denunciation by either party.	715
Oct. 8 (1761)	<i>From the Greek Chargé</i> Authorization for Chargé to conclude treaty according to U. S. proposal.	716
Oct. 18 Y-5	<i>Agreement between the United States and Greece</i> Agreement modifying Treaty of Commerce and Navigation of Dec. 22, 1837. (Footnote: Failure of agreement to come into force.)	716

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT

REVOLUTIONARY AGITATION AGAINST PRESIDENT ESTRADA CABRERA—EFFORTS BY THE UNITED STATES TO ALLAY FACTIONAL DISCORD—REQUEST FROM BOTH FACTIONS FOR MEDIATION BY THE DIPLOMATIC CORPS—PROCLAMATION OF REFORMS ISSUED BY THE PRESIDENT ON THE ADVICE OF THE UNITED STATES GOVERNMENT—OUTBREAK OF FACTIONAL HOSTILITIES, AND RESIGNATION OF THE PRESIDENT—INAUGURATION OF THE HERRERA GOVERNMENT AND ITS RECOGNITION BY THE UNITED STATES

1920 Jan. 3 (1)	<i>From the Chargé in Guatemala (tel.)</i> Distribution of Unionist pamphlets, signed by men of means and good standing, aimed to bring about downfall of President Estrada Cabrera.	718
Jan. [6] (2)	<i>From the Chargé in Guatemala (tel.)</i> Hostile acts of President against new political party; assurances by latter of compliance with law.	719
Jan. 24 (19)	<i>From the Minister in Guatemala (tel.)</i> Arrest of five prominent men in Unionist Party.	719
Jan. 26 (20)	<i>From the Minister in Guatemala (tel.)</i> Spread of Unionist movement; belief that trouble will ensue; request for warships close by.	719
Feb. 2 (24)	<i>From the Minister in Guatemala (tel.)</i> President's statement that present opposition is outgrowth of German influences in Guatemala during the war; his determination to crush it.	720

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT—Continued

Date and number	Subject	Page
1920		
Feb. 3 (25)	<i>From the Minister in Guatemala (tel.)</i> Rumor of subterfuge planned by President as excuse to kill leaders of opposition party. Renewed request for war-ships.	720
Feb. 6 (8)	<i>To the Minister in Guatemala (tel.)</i> Instructions to make representations to President against summary trial and execution of political leaders. Dispatch of three destroyers to nearby waters.	720
Feb. 7 (26)	<i>From the Minister in Guatemala (tel.)</i> Disclosure in interview with President of anxiety of foreign missions over conditions.	721
Feb. 9 (27)	<i>From the Minister in Guatemala (tel.)</i> President's assurance (text printed) that political trials will be conducted according to laws of country.	721
Feb. 26 (12)	<i>To the Minister in Guatemala (tel.)</i> Warning against any act which might be construed as participation in purely domestic affairs.	722
Mar. 1 (31)	<i>From the Minister in Guatemala (tel.)</i> President's hostility to Unionist Party, manifested in message to Congress. Gatherings of rival parties.	722
Mar. 9 (18)	<i>To the Minister in Guatemala (tel.)</i> Instructions to impart to President, in view of recent imprisonments, unfortunate impression upon America created by efforts to suppress normal political activity. Instructions to indicate to Unionists U. S. displeasure at any violence.	722
Mar. 12 (38)	<i>From the Minister in Guatemala (tel.)</i> Violent disruption by secret police of peaceful demonstration by Unionists, causing casualties.	723
Mar. 12 (39)	<i>From the Minister in Guatemala (tel.)</i> Unionists' intention to depose President; notice that Legation can have no further communication with party seeking to overthrow, by force, legally constituted authority.	724
Mar. 16 (43)	<i>From the Minister in Guatemala (tel.)</i> Unofficial good offices of diplomatic corps at request of both factions; presentation of demands by Unionists; Government's concession to essential demands; further negotiations.	725
Mar. 16 (44)	<i>From the Minister in Guatemala (tel.)</i> President's proposal to submit matter to decision of the United States. Unionists' distrust of any guaranty which President might give. Request for instructions.	726
Mar. 17 (45)	<i>From the Minister in Guatemala (tel.)</i> Continuation of efforts for settlement, committees of each party conferring separately with diplomatic corps.	726
Mar. 17 (20)	<i>To the Minister in Guatemala (tel.)</i> Advice to President Estrada Cabrera to observe five points in reform program covering constitutional and political rights.	727

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT—Continued

Date and number	Subject	Page
1920		
Mar. 18 (21)	<i>To the Minister in Guatemala (tel.)</i> Proposal for proclamation by President Estrada Cabrera embodying reforms suggested; statement to be published by Legation when proclamation is issued (text printed) expressing belief reforms will be made and deploring any revolutionary measures.	727
Mar. 19 (22)	<i>To the Minister in Guatemala (tel.)</i> Further suggestions regarding proposed proclamation subsequent to interview with Guatemalan representatives.	729
Mar. 21 (46)	<i>From the Minister in Guatemala (tel.)</i> President's unwillingness to include demands of Unionists as well as Department's suggestions in his proclamation, as urged by Minister. Unionists' desire to impeach President.	729
Mar. 22 (24)	<i>To the Minister in Guatemala (tel.)</i> Inquiry as to remaining points desired in proclamation; permission to insist that measures be included in proclamation if they contain nothing which will undermine respect for constituted Government.	730
Mar. 22 (47)	<i>From the Minister in Guatemala (tel.)</i> President's failure to carry out promised reforms; distrust and condemnation of his policy on part of majority of people. Renewed request for warships.	731
Mar. 24 (48)	<i>From the Minister in Guatemala (tel.)</i> Five additional points of policy agreed upon by Unionists and Government to be announced simultaneously with proclamation.	732
Mar. 26 (26)	<i>To the Minister in Guatemala (tel.)</i> Arrangements for stationing U. S. ships in waters of Guatemala. Request for further information regarding situation, in view of the release of political prisoners and President Estrada Cabrera's desire to accept Department's plan.	733
Mar. 26 (50)	<i>From the Minister in Guatemala (tel.)</i> Inadequacy of President's proclamation as now drafted. Final agreement between Unionists and Government committees; doubt that terms will be carried out.	733
Mar. 29 (52)	<i>From the Minister in Guatemala (tel.)</i> Four additional points in agreement, signed by Unionists and Government. President's consent to include all Department suggestions in proclamation. Present political situation.	734
Mar. 30 (54)	<i>From the Minister in Guatemala (tel.)</i> Claim that the President is insane and that his resignation is only peaceful remedy.	736
Mar. 31 (28)	<i>To the Minister in Guatemala (tel.)</i> Necessity of proclamation's containing first three of Department's suggestions. Request for text of proposed proclamation, points objected to by President, and statement of policy to be announced with proclamation.	736

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT—Continued

Date and number	Subject	Page
1920 Apr. 1 (29)	<i>To the Minister in Guatemala (tel.)</i> Belief that President should be permitted to finish his term if he issues proclamation agreeing to carry out desired reforms. Request for information concerning <i>designados</i> .	737
Apr. 1 (56)	<i>From the Minister in Guatemala (tel.)</i> Unionists' charge of Presidential violation of agreement of Mar. 27 and decision to demand his resignation. Certainty of impeachment upon his refusal.	737
Apr. 5 (61)	<i>From the Minister in Guatemala (tel.)</i> Unionists' note to diplomatic corps (text printed) promising maintenance of peace and warning of possibility that President will counterfeit a revolution to forestall impeachment proceedings.	738
Apr. 6 (60)	<i>From the Minister in Guatemala (tel.)</i> Issue of Presidential proclamation and U. S. declaration according to instructions; notification to Unionists; immediate exhibition of bad faith by President.	739
Apr. 7 (30)	<i>To the Minister in Guatemala (tel.)</i> Further warning against interference in Guatemalan domestic affairs and statement of policy regarding landing of marines.	739
Apr. 8 (63)	<i>From the Minister in Guatemala (tel.)</i> Consideration by Assembly of impeachment charges against President and charges of insanity; failure of Army to carry out order to dissolve Assembly.	740
[Apr. 8?] (64)	<i>From the Minister in Guatemala (tel.)</i> Names of <i>designados</i> of Guatemala.	741
Apr. 8 (65)	<i>From the Minister in Guatemala (tel.)</i> Declaration by Assembly of insanity of Estrada Cabrera and election of Herrera as President.	741
Apr. 8 (67)	<i>From the Minister in Guatemala (tel.)</i> Legislative decrees deposing Estrada Cabrera and appointing Herrera as President, and Herrera's decree naming Cabinet (texts printed).	741
Apr. 9 (34)	<i>To the Minister in Guatemala (tel.)</i> Inquiry regarding constitutionality of impeachment proceedings, election of Herrera, and reported asylum given Herrera in Legation. Warning against recognition without instructions.	742
Apr. 10	<i>From the Minister in Guatemala (tel.)</i> Fighting between adherents of Estrada Cabrera and Unionists; bombardment of city by former; arrival of Legation guards.	743
Apr. 11 (66)	<i>From the Minister in Guatemala (tel.)</i> Further bombardment of city; protest to Estrada Cabrera by diplomatic corps; admission of family of Herrera to asylum in British Legation.	744

LIST OF PAPERS

LXXI

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT—Continued

Date and number	Subject	Page
1920		
Apr. 11 (35)	<i>To the Minister in Guatemala (tel.)</i> Authorization to offer good offices in proposing armistice and conference on board U. S. ship or in Legation in endeavor to prevent bloodshed.	744
Apr. 12 (68)	<i>From the Minister in Guatemala (tel.)</i> Denial of granting asylum in Legation to Herrera. Inconclusive evidence of legality of election of Herrera. His character and standing.	745
Apr. 12 (69)	<i>From the Minister in Guatemala (tel.)</i> Suspension of hostilities and conference of Unionists, Foreign Minister, and diplomatic corps in Legation; agreement proposed by Foreign Minister (text printed) calling for resignation of Estrada Cabrera, assignment of power to first <i>designado</i> , and nullification of acts of Assembly.	745
Apr. 12 (36)	<i>To the Minister in Guatemala (tel.)</i> Importance of immediate armistice. Advice to Unionists to proceed in accordance with Constitution in order to secure recognition of future government.	746
Apr. 14 (70)	<i>From the Minister in Guatemala (tel.)</i> Renewal of armistice from day to day though constantly broken; tender of good offices.	746
Apr. 14 (71)	<i>From the Minister in Guatemala (tel.)</i> Terms of surrender of Estrada Cabrera (text printed); plan for his transfer to military academy for safety.	747
Apr. 15 (72)	<i>From the Minister in Guatemala (tel.)</i> Surrender of Estrada Cabrera and army and assumption of power by provisional government.	748
Apr. 16 (74)	<i>From the Minister in Guatemala (tel.)</i> Foreign Office note (text printed) announcing establishment of Herrera government and restoration of order; desire for cordial relations.	749
Apr. 16 (39)	<i>To the Minister in Guatemala (tel.)</i> Authorization, if so requested, to furnish to Estrada Cabrera escort to coast and passage on U. S. ship.	749
Apr. 17	<i>From the Guatemalan Minister</i> Notification by Foreign Minister (text printed) regarding Herrera's assumption of power and appointment of Cabinet with support of whole country; request for U. S. recognition.	750
Apr. 17 (40)	<i>To the Minister in Guatemala (tel.)</i> Inquiry whether provisional government is established in accordance with Guatemalan Constitution; suggestion that general political amnesty be declared.	750
Undated [Rec'd Apr. 20]	<i>From the Guatemalan Minister for Foreign Affairs (tel.)</i> Announcement of assumption of Presidency by Herrera and desire for U. S. support in reorganization of country.	751

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT—Continued

Date and number	Subject	Page
1920 Apr. 20 (78)	<i>From the Minister in Guatemala (tel.)</i> Naming of Carlos Herrera as first <i>designado</i> by called session of Congress and subsequent designation as President; indecision as to legality of procedure; success of efforts to restore peace and quiet.	751
Apr. 24 (81)	<i>From the Minister in Guatemala (tel.)</i> Herrera's decree calling for Presidential elections (text printed).	752
Apr. 24 (82)	<i>From the Minister in Guatemala (tel.)</i> Detention of Estrada Cabrera as prisoner pending investigation of title to large estate, presumed to belong in large part to Guatemala.	752
May 24 (50)	<i>To the Minister in Guatemala (tel.)</i> Request for immediate report on situation and opinion whether life of Estrada Cabrera is in danger.	753
Undated [Rec'd May 27] (93)	<i>From the Minister in Guatemala (tel.)</i> Removal of Estrada Cabrera to ordinary police station and institution of trial proceedings; assurance that his life will be spared together with lives of most of his generals.	753
June 5 (100)	<i>From the Minister in Guatemala (tel.)</i> Recognition of new government by various nations. British and French intention to await U. S. action.	753
June 19 (105)	<i>From the Minister in Guatemala (tel.)</i> French decision to recognize Herrera government.	754
June 21 (55)	<i>To the Minister in Guatemala (tel.)</i> Authorization to communicate U. S. recognition of Herrera government.	754
June 26 (106)	<i>From the Minister in Guatemala (tel.)</i> Enthusiastic reception of news of U. S. recognition.	755
Aug. 29 (125)	<i>From the Minister in Guatemala (tel.)</i> Herrera victory by overwhelming majority in fair and quiet election.	755

TREATMENT OF FORMERLY GERMAN-OWNED PROPERTY

1920 June 11 (390)	<i>To the Minister in Guatemala</i> Sale of stock of Empresa Electrica de Guatemala to Electric Bond & Share Co.; refusal of former German manager to transfer stock to new owners. Instructions to inquire into matter.	755
July 3 (59)	<i>To the Minister in Guatemala (tel.)</i> Instructions to make effort to stay proceedings for annulment of sale of Empresa Electrica until arrival in Guatemala of Innes, representative of Electric Bond & Share Co.	756

GUATEMALA

TREATMENT OF FORMERLY GERMAN-OWNED PROPERTY—Continued

Date and number	Subject	Page
1920 July 14 (59)	<i>From the Minister in Guatemala</i> Interview with Foreign Minister, who gives assurance that no steps will be taken regarding Empresa Electrica in absence of Innes.	756
July 31 (399)	<i>To the Minister in Guatemala</i> U. S. attitude toward sale of German property now in hands of Guatemala, in view of termination of war.	757
Oct. 4 (138)	<i>From the Minister in Guatemala (tel.)</i> Guatemalan program concerning disposal of German properties, conditional upon U. S. approval.	758

HAITI

EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915, AND SUPPLEMENTARY AGREEMENTS

REPORTS FROM THE MINISTER IN HAITI AND THE FINANCIAL ADVISER CHARGING FAILURE OF THE HAITIAN GOVERNMENT TO OBSERVE THE TERMS OF THE AGREEMENT OF AUGUST 24, 1918—COMPLAINTS BY THE HAITIAN GOVERNMENT ALLEGING ARBITRARY INTERFERENCE BY THE AMERICAN TREATY OFFICIALS—SUSPENSION OF THE SALARIES OF THE HAITIAN PRESIDENT AND HIGH OFFICERS OF STATE BY ORDER OF THE AMERICAN MINISTER—INSISTENCE BY THE UNITED STATES UPON COOPERATION IN LEGISLATION—WITHDRAWAL OF THE ORDER SUSPENDING SALARIES

1919 Dec. 11 (376)	<i>From the Minister in Haiti</i> Refusal of Legation to recognize validity of certain Haitian laws passed without U. S. approval in accordance with agreement of Aug. 24, 1918; <i>modus operandi</i> with President to prevent recurrence of situation.	760
1920 July 21	<i>From the Financial Adviser of the Government of Haiti</i> Haitian disapproval of section 15 of the <i>retrait</i> and of other measures designed to regulate import and export of foreign currency and to maintain the gourde as legal tender; suspension of consideration of budget pending settlement of dispute in favor of Financial Adviser.	762
July 30	<i>From the Haitian Chargé</i> Foreign Secretary's note (text printed) complaining of arbitrary interference by U. S. officials in preventing vote on budget, demanding certain legislation, and insisting on dismissal of Cabinet.	767
July 30	<i>From the Haitian Chargé</i> Request for investigation of facts in connection with demands of U. S. officials in Haiti.	768
Aug. 3	<i>To the Haitian Legation</i> <i>Aide mémoire</i> defending acts of U. S. officials and inquiring reasons for Haitian refusal to enact measures previously agreed upon and adoption of legislation contrary to spirit of treaty of 1915.	769

HAITI

EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915, ETC.—Continued

Date and number	Subject	Page
1920		
Aug. 5 (46)	<i>From the Minister in Haiti (tel.)</i> Suspension of salaries of Haitian President and other high officials until cooperation in accordance with treaty provisions is attained.	770
Aug. 5 (58)	<i>To the Minister in Haiti (tel.)</i> Inquiry as to alleged insistence by U. S. officials upon resignation of Cabinet; instructions to keep Department fully informed.	771
Aug. 6	<i>President Dartiguenave to President Wilson (tel.)</i> Protest against suspension of salaries.	771
Aug. 6 (60)	<i>To the Minister in Haiti (tel.)</i> Expression of surprise at order for suspension of salaries without prior reference to Department. Inquiry as to authority under treaty for such action.	771
Aug. 7 (61)	<i>To the Minister in Haiti (tel.)</i> Instructions to limit action to threat to suspend salaries, unless measure has already become effective.	772
Aug. 9 (47)	<i>From the Minister in Haiti (tel.)</i> Explanations regarding alleged demand for resignation of Cabinet and suspension of salaries upon Haitian failure to cooperate with U. S. officials.	772
Aug. 9 (48)	<i>From the Minister in Haiti (tel.)</i> Further explanation of suspension of salaries, ordered under provisions of art. 5 of treaty.	773
Aug. 12 (63)	<i>To the Minister in Haiti (tel.)</i> Suggestion that suspension of salaries be withheld for 30 days if Haiti is inclined to cooperate in carrying out purposes of treaty. Instructions to send copies of laws and keep Department informed.	774
Aug. 12 (64)	<i>To the Minister in Haiti (tel.)</i> <i>Note verbale</i> for President (text printed) regarding necessity for closest cooperation in fulfillment of provisions of treaty; authority given Minister to suspend action on salaries for 30 days in hope of manifestation of desire to cooperate.	774
Aug. 20 (53)	<i>From the Minister in Haiti (tel.)</i> Proposal submitted to President for restoration of salaries for July with 30 days granted for action on approved legislative program; Haitian refusal to accept salaries with attached conditions.	776
Aug. 21	<i>From the Haitian Chargé</i> Memorandum from Foreign Office (text printed) defending action on the law concerning acquisition of real estate, which was objected to by U. S. officials.	777
Aug. 21 (54)	<i>From the Minister in Haiti (tel.)</i> Refusal of Government to assume obligation of enacting at special session of Council of State the complete program demanded; consequent refusal to authorize payment of salaries.	780

HAITI

EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915, ETC.—Continued

Date and number	Subject	Page
1920		
Aug. 23	<i>From the Haitian Chargé</i> Haitian note (text printed) expressing willingness to cooperate in carrying out U. S. directions for best interests of Haiti, but objecting to conditions imposed in <i>note verbale</i> .	780
Aug. 26 (69)	<i>To the Minister in Haiti (tel.)</i> U. S. intention to inform Haiti of program essential for carrying out provisions of treaty, in view of formal assurances of cooperation, holding in abeyance demand for modification and transfer of bank charter.	781
Aug. 27	<i>To the Haitian Chargé</i> Desire that certain laws passed in violation of agreement be suspended pending U. S. approval and that certain other laws be at once enacted, thus permitting renewal of cooperation.	782
Sept. 8	<i>From the Haitian Chargé</i> Haitian note (text printed) replying to <i>note verbale</i> and commenting individually on items in proposed legislative program.	783
Sept. 8 (340)	<i>To the Minister in Haiti</i> Decision to send Rear Admiral Knapp to Haiti as U. S. military representative, in order to settle controversy.	796
Sept. 8	<i>To the Military Representative in Haiti</i> Information regarding situation in Haiti and instructions as to program desired.	797
Sept. 10 (65)	<i>From the Minister in Haiti (tel.)</i> Lack of evidence of change of attitude by Government. Necessity for removal of anti-American influence in Cabinet.	800
Sept. 20 (67)	<i>From the Minister in Haiti (tel.)</i> Assurances by President that legislative demands enumerated will be met; order for payment of suspended salaries, 30 days being allowed for carrying out program.	800
Sept. 23 (8)	<i>From the Military Representative in Haiti</i> Favorable report on situation in Haiti; memorandum of interview with President (text printed).	800
Sept. 27	<i>To the Haitian Chargé</i> Interpretation of agreement of Aug. 24, 1918, as requiring U. S. approval of all legislation, as set forth in <i>modus operandi</i> agreed upon with President in November 1918. Request for Haitian assurance of similar interpretation.	806
Oct. 2 (1850)	<i>From the Military Representative in Haiti (tel.)</i> For the Secretary of the Navy also: Failure of Haitians to take steps to meet legislative demands; plan to hold up salaries until program is entirely accomplished.	808
Oct. 4 (352)	<i>To the Minister in Haiti</i> Arrangement for transfer of control of Haitian Customs Receivership to Bureau of Insular Affairs; recommendation for Customs Board in Port-au-Prince to hear appeals from decisions of Receiver General.	808

HAITI

EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915, ETC.—Continued

Date and number	Subject	Page
1920 Oct. 8 (88)	<i>To the Minister in Haiti (tel.)</i> Opinion that salaries should be paid at once; instructions to inquire reasons for delay in carrying out agreement if program has been accepted by President.	810
Oct. 11 (73)	<i>From the Minister in Haiti (tel.)</i> Authorization for immediate payment of September salaries; presentation to Council of State of legislative requirements after 3 weeks' delay on part of President.	810
Oct. 14 (93)	<i>To the Minister in Haiti (tel.)</i> Instructions to withdraw definitely and finally the order suspending salaries in order to avoid appearance of coercion. (Footnote: Minister's compliance with instructions Oct. 19.)	811
Oct. 16 (357)	<i>To the Minister in Haiti</i> Inapplicability of art. 5 of treaty as basis for withholding salaries of Haitian officials.	811
Oct. 18 (94)	<i>To the Minister in Haiti (tel.)</i> Instructions to forward to Department modifications suggested in laws under consideration and to notify Haiti of U. S. intention not to insist upon repeal <i>per se</i> but only upon such changes as are deemed necessary.	813
Nov. 1	<i>From the Haitian Chargé</i> Declaration that no <i>modus operandi</i> was concluded with the United States. Interpretation as to restricted application of agreement of Aug. 24, 1918, but willingness, nevertheless, to give Legation all bills interpreting treaty of 1915.	813
Nov. 12 (1500)	<i>From the Military Representative in Haiti (tel.)</i> For the Secretary of the Navy also: Request for instructions as to whether case of alleged theft and smuggling by customs employee should be tried by provost court or by civil court.	815
Nov. 17 (105)	<i>To the Minister in Haiti (tel.)</i> Decision that civil court should try customs official.	816

FINANCIAL AFFAIRS

PROPOSED MODIFICATIONS IN THE CHARTER OF THE NEW NATIONAL BANK;
RELUCTANCE OF THE HAITIAN GOVERNMENT TO ACCEPT THE MODIFICATIONS

1920 Feb. 4	<i>Department Memorandum</i> Conference between Department officials, Financial Adviser of Haiti, and New York bank official to discuss modifications of concession of National Bank of Haiti (text printed) in event that stock and assets should be purchased by National City Bank of New York.	816
Mar. 13 (28)	<i>To the Chargé in Haiti (tel.)</i> Instructions to urge approval of proposed changes in charter of National Bank which were communicated by Haitian Minister to his Government.	818

HAITI

FINANCIAL AFFAIRS—Continued

Date and number	Subject	Page
1920 Mar. 26 (23)	<i>From the Chargé in Haiti (tel.)</i> President's reply that proposition must be submitted to Legislature; his disapproval of prohibition of importation of U. S. gold.	819
May 13 (44)	<i>To the Minister in Haiti (tel.)</i> Instructions to explain advantages to Haiti of proposed bank reform and to urge its ratification without further delay.	819
May 21 (34)	<i>From the Minister in Haiti (tel.)</i> President's charge that delay is caused by lack of full powers on part of bank representatives; tentative acceptance by Government of all propositions except two, modification of which is desired.	820
June 12 (37)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Acceptance of modification of charter by Haiti and approval of its transfer to new corporation when signed by qualified persons.	821
July 16	<i>From the National City Bank of New York</i> Objections to Haitian proposal for additional amendments; request for approval of transfer of charter forthwith in present form with understanding that original amendments become operative when Haiti gives consent to transfer of contract.	821
July 16 (39)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Refusal of Haiti to accept modifications of charter; consequent temporary suspension of discussion of budget.	822
July 23	<i>Department Memorandum</i> Minutes of conference with New York bank official recording U. S. approval of National City Bank's proposal with understanding that future consideration will be given Haitian subordinate modifications if acceptable.	823
July 24 (55)	<i>To the Minister in Haiti (tel.)</i> For McIlhenny: Information as to U. S. approval of National City Bank's proposal and instructions to press for modification of contract prior to its transfer as being more desirable for Haitians.	823
July 28 (42)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Urgent request that alternate proposal of National City Bank be dropped as weakening U. S. position in negotiations.	824
Aug. 5 (59)	<i>To the Minister in Haiti (tel.)</i> For McIlhenny: Inability to withdraw consent to National City Bank proposal. Summary of <i>aide mémoire</i> sent to defend refusal of U. S. officials to consider budget.	825

HAITI

FINANCIAL AFFAIRS—Continued

EXECUTION OF THE CONTRACT OF RETRAIT, APRIL 12, 1919: INSISTENCE BY THE UNITED STATES THAT THE HAITIAN GOVERNMENT GIVE EFFECT TO ARTICLE 15 RESTRICTING THE IMPORTATION AND EXPORTATION OF NON-HAITIAN CURRENCY

Date and number	Subject	Page
1920 Mar. 9 (26)	<i>To the Chargé in Haiti (tel.)</i> Instructions to urge Government to issue <i>arrêté</i> for carrying out provisions of art. 15 of the contract of <i>retrait</i> restricting importation and exportation of non-Haitian currency.	826
Mar. 29 (32)	<i>To the Chargé in Haiti (tel.)</i> Inquiry whether Haiti has issued <i>arrêté</i> as requested.	826
Apr. 5 (25)	<i>From the Chargé in Haiti (tel.)</i> President's instructions to Haitian Chargé in Washington to confer with Financial Adviser on <i>arrêté</i> , not yet issued.	827
Apr. 8 (36)	<i>To the Chargé in Haiti (tel.)</i> Interview between Haitian Chargé and Financial Adviser. Instructions to inform President of constancy of U. S. position and to urge him to sign <i>arrêté</i> .	827

CORRESPONDENCE WITH THE BRITISH AND FRENCH GOVERNMENTS REGARDING THE ORGANIZATION AND POWERS OF THE CLAIMS COMMISSION PROVIDED FOR BY THE PROTOCOL OF OCTOBER 3, 1919, BETWEEN THE UNITED STATES AND HAITI

1919 Nov. 13	<i>From the French Ambassador</i> Suggestion for appointment of French representative and of a disinterested third party on new claims commission for settlement of such French claims as are not already arbitrated by protocol of Sept. 10, 1913, between France and Haiti.	827
1920 Apr. 22	<i>From the French Ambassador</i> Inquiry whether U. S. views coincide with French regarding settlement of French claims in Haiti.	828
May 6	<i>To the British Appointed Ambassador</i> Decision to nominate British subject to serve on Commission for consideration of British claims in Haiti, in view of British reservations.	828
May 12	<i>From the British Appointed Ambassador</i> Withdrawal of reservation regarding reduction by Commission of admitted claims but insistence upon right for adjustment through diplomatic channels failing satisfactory settlement otherwise.	829
Oct. 29	<i>To the French Chargé</i> Department memorandum (text printed) offering to nominate French representative to serve on Commission for consideration of French claims in Haiti and reserving to France the right to present disputed claims through diplomatic channels.	829
Dec. 14	<i>From the French Ambassador</i> French acceptance of U. S. plan of procedure conditional upon exclusion of cases already arbitrated and certain other specific terms to be defined in exchange of notes. Request for resumption of service on foreign and internal debt of Haiti.	833

HAITI

FINANCIAL AFFAIRS—Continued

Date and number	Subject	Page
1920 Dec. 26	<i>From the French Ambassador</i> Desire that Gluck claim already adjudicated by Haitian court, be referred to Claims Commission for execution of judgment only.	835
1921 Jan. 17	<i>To the French Ambassador</i> U. S. concurrence in French conditions regarding adjustment of claims, and suggestion that notes be exchanged with Haiti instead of with the United States.	836

FINANCIAL ARRANGEMENTS LOOKING TOWARD THE SERVICE OF THE PUBLIC DEBT

1920 Apr. 15	<i>From the French Ambassador</i> Predicament of French holders of bonds of Haitian internal debt and of certificates of indebtedness of Haitian Government because of nonpayment of interest.	837
Apr. 30	<i>To the French Ambassador</i> Necessity for loan to liquidate Haitian debts; inadvisability of appointing Claims Commission until loan is secured for payment of awards; assurances that refinancing of Haiti is receiving earnest attention.	837
Aug. 21 (68)	<i>To the Minister in Haiti (tel.)</i> For McIlhenny: Inquiries as to possibility of paying arrears of interest on foreign debt from available surplus on hand.	838
Aug. 27 (56)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Request that Haitian Government supply funds to pay interest and amortization now due on foreign debt.	838
Sept. 4 (61)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Haitian Government's approval of transfer of sum to meet interest due and amortization of foreign debt. Its purpose to capitalize interior debt and to abrogate protocol of Oct. 3, 1919, regarding loan.	839
Sept. 9 (341)	<i>To the Minister in Haiti</i> Proposed monthly segregation of revenues for payment of current interest and amortization of public debt as priority claim. Belief that loan can then be floated on favorable terms.	839
Oct. 16 (78)	<i>From the Minister in Haiti (tel.)</i> Financial Adviser's concurrence in Department's plan with suggestions for minor changes.	841
Oct. 19 (95)	<i>To the Minister in Haiti (tel.)</i> Department's approval of changes and wish that plan be put in operation at once.	842
Dec. 21	<i>From the French Ambassador</i> Representations regarding alleged Haitian failure to pay coupons on 1910 bonds and subsequent purchase of many bonds at substantial discount.	842

HAITI

FINANCIAL AFFAIRS—Continued

Date and number	Subject	Page
1921 Jan. 17	<i>To the French Ambassador</i> Assurance that funds have been deposited with certain firms for prompt payment of interest and amortization of three foreign loans; efforts made to float loan to take care of internal debt.	843

NEGOTIATIONS WITH THE HAITIAN GOVERNMENT REGARDING THE FLOTATION OF A
LOAN

1920 Sept. 13 (75)	<i>To the Minister in Haiti (tel.)</i> Objections to payment of pecuniary claims, except those enumerated in art. III of protocol, prior to submission to Claims Commission. Recommendations for early functioning of Commission.	845
Oct. 9 (72)	<i>From the Minister in Haiti (tel.)</i> From McIlhenny: Haitian Government's authority to float external loan under certain conditions, impossible of acceptance in view of Department's instructions.	845
Oct. 13 (91)	<i>To the Minister in Haiti (tel.)</i> Instructions for Financial Adviser to gather all material relevant to Haitian debts and proceed to Washington for consultation.	846
Oct. 21 (354)	<i>To the Minister in Haiti</i> Instructions to inform Acting Financial Adviser that Financial Adviser's absence should not prevent resumption of budget discussions.	847
Nov. 1 (96)	<i>To the Minister in Haiti (tel.)</i> Instructions to inform President that certain internal funded debts may be paid without submission to Commission; recommendations for \$15,000,000 short-term loan and issue of bonds as collateral and for refunding of internal debt.	847
Nov. 13 (90)	<i>From the Minister in Haiti (tel.)</i> Haitian counter-proposition for modification of amount of loans and bond issue and suggestion that interest in arrears on certain interior loans be ordered paid.	848
Nov. 16 (104)	<i>To the Minister in Haiti (tel.)</i> U. S. willingness to accept Haitian suggestion of modified short-term loan under certain conditions. Advantages of prompt action.	849
Nov. 23 (95)	<i>From the Minister in Haiti (tel.)</i> Explanatory statement from Department of Finance (text printed) reiterating acceptance of U. S. modified plan conditionally and urging payment of interest in arrears on internal debt.	850
Nov. 29 (108)	<i>To the Minister in Haiti (tel.)</i> Financial Adviser's intention to proceed to negotiate with banks for flotation of loan, pending Haitian authorization, on assumption that bond issue for collateral may be increased if banks consider Haitian proposal insufficient.	851

HAITI

FINANCIAL AFFAIRS—Continued

Date and number	Subject	Page
1920 Dec. 7 (100)	<i>From the Minister in Haiti (tel.)</i> Foreign Office note (text printed) insisting upon retention of Haitian estimate for bond issue and stating that, when this is accepted, authorization for loan will be given.	852

HONDURAS

REVOLUTIONARY DISORDERS ON THE FRONTIERS OF HONDURAS: REPRESENTATIONS BY THE UNITED STATES DEPRECATING THE TOLERATION OF REVOLUTIONARY ACTIVITIES AGAINST NEIGHBORING STATES

1920 Jan. 8 (4)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Foreign Minister's request for U. S. good offices to prevent revolutionary activities against Honduras reported as proceeding from Nicaraguan border.	854
Jan. 9 (5)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Confirmation of report as to revolutionary activities; Government's request for interrogation of Nicaraguan Government on matter and for presence of U. S. naval vessel off north coast.	854
Jan. 13 (6)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to urge Government measures to prevent Nicaraguan territory from being used as base for revolutionary activities against Honduras.	855
Jan. 15 (8)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Reported failure of revolutionary attempt; denial by Nicaraguan President of any connection therewith; his efforts to apprehend revolutionists.	855
Jan. 16 (2)	<i>From the Minister in Nicaragua (tel.)</i> Steps taken and further measures suggested by Government to prevent revolutionary activities against Honduras.	855
Jan. 24 (7)	<i>To the Minister in Nicaragua (tel.)</i> Telegram from Tegucigalpa (text printed) regarding Honduran threat to send troops into Nicaragua to apprehend revolutionists if Nicaragua fails to halt their activities. U. S. representations to Honduras against such a course. Instructions to urge Nicaragua to prevent raids from its territory.	856
Jan. 26 (11)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Honduran proposal to send Foreign Minister to Nicaragua as special envoy to ask apprehension of revolutionists and permission for Honduran troops to cross border if necessary.	857
Jan. 30 (3)	<i>From the Minister in Nicaragua (tel.)</i> President's objection to proposed Honduran invasion of Nicaraguan territory; consent to send small guard to prevent raids on border.	857
Jan. 31 (8)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to investigate persistent reports that Nicaraguan President is permitting revolutionary plots against Honduras, and if true, to make representations.	858

HONDURAS

REVOLUTIONARY DISORDERS ON THE FRONTIERS, ETC.—Continued

Date and number	Subject	Page
1920		
Feb. 2 (4)	<i>From the Minister in Nicaragua (tel.)</i> President's reassertion of aloofness from Honduran affairs and insistence upon investigation of situation by U. S. Legation guard.	858
Feb. 2 (13)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Inauguration of President López; apparent cooperation by Salvador and Nicaragua with Honduras regarding border affairs.	859
Feb. 7 (8)	<i>To the Consul in Charge of the Legation in Honduras (tel.)</i> Instructions to make full report as to whether revolutionary activities on the border have ceased.	859
Feb. 18 (20)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Note from Government (text printed) stressing critical border situation and requesting U. S. counsel as to means to prevent open war with Nicaragua.	859
Feb. 20 (21)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Declaration of martial law in south including Tegucigalpa. Recruiting of troops for Nicaraguan boundary service.	860
Feb. 25 (16)	<i>To the Minister in Nicaragua (tel.)</i> Information that request has been made of Navy Department to send marines from Managua to investigate situation on border.	860
Feb. 25 (14)	<i>To the Consul in Charge of the Legation in Honduras (tel.)</i> Instructions to urge importance of refraining from any action which might lead to conflict pending investigation of situation by Legation guard in Nicaragua.	861
Feb. 25 (24)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Renewed activities of Honduran revolutionists, operating from Nicaraguan territory.	861
Mar. 3 (17)	<i>To the Minister in Nicaragua (tel.)</i> Inability of Navy Department to send marines to border; request for views and recommendations as to best method of ascertaining facts regarding disorders.	861
Mar. 11 (19)	<i>To the Consul in Charge of the Legation in Honduras (tel.)</i> Telegram from U. S. Legation at Managua (text printed) in explanation of alleged supplying of arms to Honduran revolutionists and President Chamorro's orders to effect concentration of revolutionists.	862
Apr. 27	<i>From the Honduran Minister</i> Request that orders be issued to prevent export of arms from the United States to Salvador by certain Hondurans planning to start expedition into Honduras.	863
May 4 (18)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to investigate reported activities aiming at armed invasion of Honduras and, if true, to take energetic action with Government. (Sent, <i>mutatis mutandis</i> , to Chargé in Salvador and repeated to consul in charge of Legation in Honduras for information.)	863

HONDURAS

REVOLUTIONARY DISORDERS ON THE FRONTIERS, ETC.—Continued

Date and number	Subject	Page
1920		
May 4 (14)	<i>From the Chargé in Salvador (tel.)</i> President's denial of contemplated invasion of Honduras, counter-allegation of Honduran aid to Salvadoran revolutionaries, and assurance of desire to settle diplomatically all differences.	863
May 8 (15)	<i>From the Minister in Nicaragua (tel.)</i> Probability that President and Honduran Minister can arrange to quell Honduran bandits on border; suggestion of former that Honduras grant general amnesty to all exiles.	864
May 10 (40)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Request for Department action regarding Honduran charge that Salvador is preparing to invade Honduras because of alleged aid to revolutionaries.	864
June 2 (21)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to make representations against invasion of Honduras by armed rebels from Nicaraguan frontier and to urge preventive measures in future.	865
June 9 (18)	<i>From the Minister in Nicaragua (tel.)</i> Information that report of invasion was exaggerated; President's desire to be rid of Honduran exiles.	865
July 9 (374)	<i>To the Chargé in Honduras</i> Belief of Honduran Minister that Honduran revolutionists in the United States plan a revolt, probably aided by General Christmas. Instructions to confirm reports and to check on movements of Christmas.	866
July 11 (49)	<i>From the Chargé in Honduras (tel.)</i> Apprehension of revolution because of loss of financial credit and weakness of Government.	867
July 12 (37)	<i>To the Chargé in Honduras (tel.)</i> <i>Note verbale</i> for Foreign Office (text printed) deprecating toleration of revolutionary activities against neighboring states, stressing international obligations, and urging constitutional government. (Sent, <i>mutatis mutandis</i> , to Managua and San Salvador.)	867
Undated [Rec'd July 29] (25)	<i>From the Minister in Nicaragua (tel.)</i> Telegram sent to Legation at Tegucigalpa (text printed) stating Nicaraguan President proposes cooperation between military forces on border to end invasions by Honduran exiles.	868
Aug. 2 (32)	<i>To the Minister in Nicaragua (tel.)</i> Approval of cooperation between military forces of two Governments, except provision permitting forces of one Republic to enter territory of the other.	869
Sept. 21 (48)	<i>To the Chargé in Honduras (tel.)</i> Inquiry as to stability of present Government, as to advisability of changes in Cabinet, and whether recommendations of Financial Adviser have been adopted.	869

HONDURAS

REVOLUTIONARY DISORDERS ON THE FRONTIERS, ETC.—Continued

Date and number	Subject	Page
1920 Sept. 23 (50)	<i>To the Chargé in Honduras (tel.)</i> Inquiry regarding reported uprisings in Honduras by revolutionists from Nicaraguan and Salvadoran territories.	869
Sept. 25 (65)	<i>From the Chargé in Honduras (tel.)</i> Failure of revolutionary movement; report on Cabinet situation; Government's serious financial straits and disposition to adopt Financial Adviser's recommendations for reorganization.	870
Sept. 25 (15)	<i>From the Chargé in Honduras</i> Government's arrest of leaders of projected revolution, thus blocking all further activities.	871
Sept. 28 (64)	<i>From the Chargé in Honduras (tel.)</i> Lack of evidence of serious revolutionary activities on borders; President's doubt as to Nicaragua's friendliness but satisfaction with cooperation of Guatemala and Salvador.	871

APPOINTMENT OF ARTHUR N. YOUNG AS FINANCIAL ADVISER TO THE GOVERNMENT OF HONDURAS

1919 Dec. 15	<i>To the Consul in Charge of the Legation in Honduras (tel.)</i> Suggestion for U. S. expert to prepare report on Honduran financial system with view to placing finances on satisfactory basis.	872
Dec. 26	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Request by President-elect that Department suggest suitable person as financial expert for service in Honduras.	872
1920 Mar. 23 (20)	<i>To the Consul in Charge of the Legation in Honduras (tel.)</i> Proposal of Prof. E. W. Kemmerer as financial expert; inquiry as to compensation.	873
Apr. 17 (38)	<i>From the Consul in Charge of the Legation in Honduras (tel.)</i> Compensation offered Kemmerer.	873
May 28 (32)	<i>To the Chargé in Honduras (tel.)</i> Kemmerer's inability to accept; proposal of Dr. A. N. Young as substitute. His qualifications.	873
June 3 (47)	<i>From the Chargé in Honduras (tel.)</i> Honduran acceptance of Young as Financial Adviser under same conditions as previously offered.	874
June 9 (368)	<i>To the Chargé in Honduras</i> Biographical sketch of Young, who sails July 24.	874
Aug. 5 (680)	<i>From the Chargé in Honduras</i> Arrival and reception of Young. Interview with President on reforms in administration of Government with view to reduction of expenses.	875
Sept. 29 (19)	<i>From the Chargé in Honduras</i> Young's memorandum of conversation with President (text printed) on financial situation and proposed program of reform.	876

HONDURAS

APPOINTMENT OF ARTHUR N. YOUNG, ETC.—Continued

Date and number	Subject	Page
1920 Nov. 3 (77)	<i>From the Chargé in Honduras (tel.)</i> Publication of <i>acuerdo</i> fixing War Department expenditures at greatly reduced figure for November. Plans for consideration of economies in other Departments.	877
TREATMENT OF FORMERLY GERMAN-OWNED PROPERTY		
1920 May 29	<i>To the Honduran Minister</i> Offer of assistance in securing experienced business man to manage port facilities at Amapala if Honduran Government decides to take over control or delegate it to some strictly regulated agency.	878
Dec. 30	<i>To the Honduran Minister</i> Acknowledgment of Honduran reply, which expresses Government's desire to act in accord with the United States, stating that bill will be submitted to Congress designed to establish State monopoly of Amapala facilities.	878

CUBA

POLITICAL AFFAIRS¹

Amendment of the Electoral Law Carried by the Conservatives; Failure of the United States to Dissuade President Menocal from Approving the Amendment—Agitation by the Liberals to Induce Supervision of the Elections by the United States—Concern of the United States over Pre-Election Disorders—President Menocal's Statement, October 28, 1920, Assuring the Cuban People a Fair Election—Delay by the Cuban Authorities in Announcing the Results of the Election—Appointment of General Crowder on Special Mission to Cuba

837.00/1622 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, February 13, 1920—4 p.m.

[Received February 14—3:41 p.m.]

43. It is persistently reported that the Conservatives plan soon to introduce in the Cuban Congress a bill covering two amendments to new electoral law, first, to make it possible for one candidate to figure in two parties and, second, to limit the distinguished powers of the Central Electoral Board. As soon as available, text will be transmitted if important. Rumor has it that Conservatives have consulted Washington and that Crowder is agreeable. This is, I take it, merely the usual type of rumor calculated to create unrest in opposing political organizations.

It is currently stated that as Zayas failed to win out with the Liberals he sought and has pending an arrangement [for] an alliance with Conservatives and that Zayas will be candidate for President or Vice-President on Conservative ticket.

Radical Liberals say that if this is done Nuñez now Vice President under Menocal will be run on Liberal ticket but the Civil Governor of Habana, Doctor Barreras, a Liberal, states real Liberals wish to see Crowder law applied its entirety and the Liberal members will retire from any session of Congress that votes to amend it before the law has been given a fair trial.

Should the Conservative party really make the effort to amend the new electoral law it might give the Department an opportunity to suggest to President Menocal reasonableness of inviting General

¹ Continued from *Foreign Relations*, 1919, vol. II, pp. 1-84.

Crowder here to confer with both parties regarding proposed amendments; such suggestion if made at all should now be made quickly so that invitation might be given Crowder before bill introduced by Conservatives and its discussion becomes a burning issue. Once here Crowder might remain until after elections. Present indications are that his presence would be satisfying to Liberals who now more than before say they will not go to elections without supervision.

It is thought that Menocal would not be averse to having Stephenson¹ remain or even to have General Crowder come provided it could be accomplished without reflecting upon his administration. Advance publication by Liberals here of Department's supposed intention, see despatch number 1103, November 7, 1919,² rendered it impossible for Menocal to invite Crowder here then.

LONG

837.00/1622: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, February 20, 1920—5 p.m.

31. Your number 43, February 13, 4 p.m.

The Department does not feel that any expression as to the advisability of the nomination of certain individuals for the Presidency of Cuba comes within its province and you are requested to prevent any misunderstanding of the Department's attitude in this matter.

The Department has reached the conclusion that it would be highly undesirable to undertake any amendment of the electoral law unless the present conditions unmistakably show that such amendment is indispensable to the carrying out of a fair and free election. If, however, the necessity for such amendment as I have indicated reveals itself in the electoral administration, obtain the actual amendment in writing in the form in which it is desired to present it to the Congress of Cuba, with explanatory memoranda revealing clearly the scope and application of the amendment and forward same with your own comment after a careful study of the amendment and the explanatory memoranda. I feel that I should like to present any such proposed amendment to General Crowder with a view to obtaining his opinion as to the effect of such proposed amendment on the electoral law as drafted by him after conference and deep study.

The Department does not view with favor the suggestion that the duties of Supervisor of Elections be devolved to any extent upon

¹ Maj. Harold E. Stephenson, U. S. Army, technical consultant attached to the Office of the Director General of the Cuban Census.

² *Foreign Relations*, 1919, vol. II, p. 79.

Major Stephenson but is of the opinion that his duties should cease and determine with the completion of the census.

POLK

837.00/1626 : Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

HABANA, March 11, 1920—3 p.m.

[Received March 12—12:31 a.m.]

63. Amendment to electoral law referred to in Legation's telegram number 43, February 13, 4 p.m., and Department's telegram number 31, February 20, 5 p.m., seemed to have been abandoned until yesterday when Conservatives, for the first time, publicly announced their intention to pass modification of electoral law presenting to president of Senate draft of amendment which would allow coalition between Zayas and Conservatives thus enabling Zayas Liberals to vote for Conservative presidential candidate. Other Liberals threaten to retire, also remain away from Congress if such law were forced through, leaving responsibility on Conservatives. Conservatives probably will make another effort to pass project on Friday and if successful House will have opportunity to act on it Monday. Sub-Secretary of State, however, informs me it is his opinion that [it] will be impossible to obtain a quorum before April 1st.

ARTICLE 1. Article 120 Electoral Code will be understood to be drawn up in the following terms:

ARTICLE 120. The same person shall be able to be nominated for the same office by more than one party inscribed as a national party in the register of political parties unless the office is one not subject to the rules of proportional representation. Otherwise than in the preceding case no person shall be able to appear on the official ballot as candidate for the same office on two different tickets nor for more than one office on the same ticket nor shall he be able to sign an acceptance of more than one nomination for the same office. In case he should [be proposed as a] candidate on two or more tickets he should ratify the acceptance of one of the nominations that has been made. If he does not do so it is understood that he renounces being a candidate.

ARTICLE 2. This law will take effect from its publication in the *Official Gazette* of the Republic.³

If above plan succeed[s] it is expected Nuñez will leave Conservative ranks and align with José Miguel Gomez. Rumor is current among Conservatives that Crowder, after finishing law, but before leaving here, was informed such an amendment might become necessary, it being proposed that the change be made at that time, but Crowder preferred to avoid further delay; the inference being that he made no objection to the amendment.

LONG

³ Law published Mar. 26 (file no. 837.00/1646).

837.00/1626 : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 13, 1920—5 p.m.

45. Your March 11, 3 p.m.

General Crowder recalls the incidents of the debate in Joint Parliamentary Committee on Article 120 Electoral Code about as follows: The matter was earnestly and seriously discussed by several members. The Committee had before it and the individual members very generally examined a package of the sample ballots employed in the presidential elections of 1912 and 1916. These ballots showed many coalition tickets. In one province alone the official ballot for 1916 showed five tickets with the same presidential electors and no official ballot of any province was free from this kind of coalition. It was alleged by those familiar with the situation that these coalition tickets indicated corrupt political bargaining. It seemed to be the unanimous opinion that coalition as practiced in Cuba was a menace to honest electoral administration. Juan Gualberto Gomez, a Zayista Liberal, speaking to this subject expressed his conclusion with great emphasis as follows "Fusion yes, coalition no." Article 120 like all other important articles of the new code was adopted finally without an opposing vote. General Crowder does not recall any discussion of a change in this article with any member of the Joint Parliamentary Committee and is clear that he did not commit himself to any change in said article prior to leaving Cuba.

In view of the fact that you submit no evidence of changed conditions which would indicate that the necessity had arisen for such amendment of Article 120 as is referred to in your telegram, the Department deems it important that you impress upon President Menocal that this Government deems it inadvisable to amend the electoral law as proposed and expects therefore that no such amendment will be passed.

POLK

837.00/1626 suppl. : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 25, 1920—6 p.m.

54. Department's No. 45, March 13, 5 p. m.

You are authorized to transmit the following to President Menocal: The Department has given careful study to the pending project of the amendment of the electoral code and has reached the conclusion that none of these amendments are at the present time vital to the conduct of a fair and free election in Cuba. The Department desires to reiterate the statement contained in previous telegrams that it

would be unwise now that the election machinery has begun to function to undertake unnecessary amendments to the electoral law. After the present electoral period is over, it will be possible to profit by the experience accumulated during the elections. It may then be desirable to undertake a revision with a full record of the facts. Inasmuch as none of the amendments proposed are shown to be vital to the conduct of a fair and free election, the Department has reached the conclusion that it would be most unwise and would give rise to misunderstandings if any unnecessary amendments were undertaken at the present time. The proposed amendments seem to strike at some of the safeguards deliberately recommended by the Joint Parliamentary Committee and deliberately enacted by the Cuban Congress.

In case you find it advisable to give the more detailed reasons which have led the Department to its conclusions, you may orally place before President Menocal the following considerations. In so doing, however, you are to refer to them as coming within your knowledge as some of the reasons which have led the Department to its conclusions. They should not be presented as having been textually transmitted to you. These reasons are as follows:⁶

Article 6: Because it seeks to revive in principle for the Political Party Registers the hitherto discredited method of inclusion and exclusion by party agents which method has led to such gross frauds in the electoral Registers in prior electoral periods; and further because, it transfers jurisdiction of such inclusions and exclusions from the Municipal Electoral Board to the Secretary of that Board.

Article 3: Because the appellate procedure therein provided is broadly inclusive of all decisions by the Central Electoral Board under Article 52. This article as drawn is open to the construction that it would operate to establish the civil branch of the Supreme Court as a kind of Superior Central Electoral Board and to deprive the orders and decisions of the existing Central Electoral Board of the finality they now have and which they must have if the administration confided to the Central Electoral Board is to be characterized by that promptness and expedition so necessary in electoral administration and particularly during the emergency periods thereof. It is not shown in any of the explanatory memoranda that the existing recourse to the courts to insure the conformity of the decisions and orders of the Central Electoral Board to the Constitution and the statute law is not now sufficient.

Article 1: Because it rejects the deliberate conclusion and recommendations of Special Committee of the Camara and of the Joint Parliamentary Committee for reasons which appear inconclusive.

Article 4: Because it will, in effect, establish a preponderant influence and control in the *ex-officio* members of party assemblies as

⁶ The files do not reveal the source of the Department's information regarding the following articles.

to all matters to be determined by a party Executive Committee notwithstanding the effort in the revision of the Electoral Code to reduce to a minimum the influence of *ex-officio* delegates and devolve upon members and delegates directly selected for the purpose, the resolution of all important matters to be determined by party action.

Referring to letter to Mr. Polk, March 19.⁹ Department is of the opinion that no good purpose will be served by a conference in Washington with the representatives of the Liberal or any other political party of Cuba. Any attempt to transfer the forum of political activity from the Island of Cuba to Washington is harmful to the best interests of Cuba and is fruitful of endless misunderstandings.

COLBY

887.00/1642a : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 27, 1920—1 p.m.

57. General Crowder has received telegram from Havana stating that President signed amendment to electoral law. If this is the case you are instructed to refrain from presenting to the President content of Departments March 25th, 6 p.m. Further instructions with reference to situation will be sent you as soon as Department has definite word from you with reference to the situation.

COLBY

887.00/1641 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, March 27, 1920—4 p.m.

[Received March 28—3:34 a.m.]

78. Department's March 25, 6 p.m. . . . Purport conveyed to President about 6 o'clock same [*yesterday*] afternoon.

Few hours later I heard that President had signed amendments and ordered same published in *Official Gazette* at 10 a.m. March 26. Dr. Montoro¹⁰ confirmed this statement over phone March 26, 9 p.m. Details went forward in this morning's pouch in letter to Dr. Rowe.¹¹

At an extended interview just concluded with President Menocal and Dr. Desvernine¹² the former explained that he and Zayas had much to do with amendment to electoral law passing Senate, and

⁹ Not printed.

¹⁰ Secretary to President Menocal.

¹¹ Not found in Department files.

¹² Pablo Desvernine, Cuban Secretary of State.

that when it reached House there was a wild effort to introduce every conceivable form of amendment. Gomez Liberals then took up active opposition. Zayistas renewed fight with energy and things came to a pass where Menocal claims he was compelled to take a hand to eliminate pernicious amendment. The fight had then attained such proportions he claims that action could not have been stemmed, whereupon the amendments passed the House with more than a two-thirds majority.

Friday morning about 14 hours after measure had passed House the Palace was filled with representatives urging the President to sign at once. Their arguments that the amendment had passed by more than two thirds after ample discussion made it impossible for him to decline, so he asserts, except at the price of his prestige, as it was apparent that it could be passed again over his veto. In these circumstances he signed the amendment. He defends his action on the ground that the exigencies of the situation were unusual. Dr. Desvernine supported Menocal saying that it was well known to General Crowder and to the Department of State that he¹⁸ was not a politician and incapable of approving of a measure that was not in his opinion a good thing for Cuba, that he would prepare a memorandum which would show that the Cuban interpretation of what had taken place was such that when received by General Crowder he felt the Washington Government would feel that nothing had been done which was not for the best interests of Cuba.

LONG

837.00/1642 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, March 28, 1920—11 a.m.

[Received 10:12 p.m.]

81. Following is the text of memorandum referred to in my February [March] 27, 4 p.m.

"Pursuant to our conference with the President this morning I submit the following memorandum which contains an expression of my remarks on the subject.

First of all, I enclose a statement of the vote in the House of Representatives on the amendment, which shows that it was as follows: ayes 71; nays 30; absent 16; not seated, being a substitute, 1; total 118. As you may see, the amendment was passed in the House by an overwhelming majority, against which the veto of the President would have been of no avail, especially when said amendment was passed in the Senate by an almost unanimous vote, having but one vote against it.

¹⁸ Dr. Desvernine.

Article 120 of the original electoral law, which is the article amended, provides, it is true, that no person shall appear in the official ballot as a candidate for the same office on two different tickets, but the fact is that the principle of coalition is not prohibited by the law, notwithstanding the provision before mentioned in article 120, inasmuch as article 162 of the same law positively implies that coalitions can be agreed upon and are lawful since it provides in its first paragraph that voters shall freely and secretly fill the voting tickets, and paragraph third of section third provides that in case a voter should wish to vote a plurality ticket by a selection from among the candidates contained in the different tickets and from those contained in different parts of the same ticket, he shall make a cross in the square placed on the left of the name of each of the candidates and he may vote a complete part or section of one ticket and another section or part of another ticket, he having also the right to select candidates from among the different tickets or parts of same which he may not have voted in its entirety.

Section fourth of that same article 162 directs that if a voter wishes to vote for persons not contained in any of the tickets he can do so by writing their names in the blank column underneath the names of the offices to be filled. This evidently shows that the principle of coalition is not excluded from the electoral law with the result, however, that with the provision in article 120, voters who may wish to exercise their right to vote for candidates named in different tickets, or their sections, may not be able to exercise said right if they are unable to read and write or if they do not understand well the way the [to] vote as framed in article 162 before mentioned and this hampering in the exercise of their right to vote, partially by selecting the candidates on the ticket of one party and those on the ticket of another party, is a result which does not seem equitable or proper if, as the case is, the law does not forbid that an elector or voter of one party can have the right to vote, if he sees fit, for candidates of another party, a right which the said law clearly grants him.

The purpose of the amendment is therefore to facilitate the voting of mixed or selected tickets in regard to the names contained in the different tickets of the different political parties by allowing that practice only in regard to national parties and not in regard to provincial, municipal or local political groups, or parties, as the case may be. Only national political parties, duly registered and recognized as such, can insert in their tickets the same person or persons included in the ticket or tickets of other national parties.

As it can be seen, the modification to the law refers only to the form and procedure to be followed in exercising the right recognized in paragraph 3, number third of [article] 162 for voting on the same persons in mixed tickets.

If the exercise of this right to vote mixed tickets, which is admitted in article 162, exists, as it does, and it is shown clearly, the amendment in no way conflicts with any substantial principle of the law as it rather responds to its spirit which, as shown before, does not prohibit coalitions.

My view on the subject is that, if laws should afford all possible facilities for the exercise of lawful rights granted by them, this amendment is advisable as otherwise voters would be handicapped

in, or even prevented in some cases, from the lawful means for expressing their choice in voting.

As to the other articles of the amendment to the law modifying articles 248, 284, 291, and 288, I do not see that they substantially affect in the least, the provisions of those articles and I understand that the amendments are all not only absolutely lawful, but expedient and necessary¹³ and accordingly Congress has kept itself within the lines of its most clear legal powers in deciding upon those amendments which rest on grounds of both equity and justice."

Names of those who voted for and against follow by mail.¹⁴

Long

837.00/1629: Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 30, 1920—5 p.m.

59. Your 66, March 16, 6 p.m.¹⁴

The Department is apprehensive lest the approval of amendments by President Menocal lead to further movement for amendment electoral law. You are therefore directed to observe with greatest care whether any further movement in this direction is apparent. The Department maintains unchanged its attitude with reference to the undesirability of the amendments as passed and is particularly anxious to discourage any further tinkering with the electoral law. You are therefore authorized if, in your opinion, it will contribute toward this end, orally to state to President Menocal that the Department was surprised at the undue haste which he showed in approving the amendments, especially as he was aware of the Department's attitude . . .

COLBY

837.00/1641: Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 31, 1920—noon.

60. Your 78, March 27, 4 p.m. Department will immediately take up the situation created by President Menocal's approval of amendments. Owing to the fact that you will probably receive visits from Miguelista leaders, Department deems it important to advise you without delay of this Government's policy in case

¹³ See also Dr. Desvernine's memorandum, p. 10.

¹⁴ Not printed.

followers of Gomez should declare their intention of withdrawing from approaching elections. You are authorized to outline this policy in following terms:

"The withdrawal of any political party from participation in an election, be it national or local, is regarded by this Government not only as undemocratic, but as tending to undermine the foundations of popular government. Such withdrawal would, in the view of this Government, mean that the leaders of the party thus counseling their followers to abstain from exercising the political duties of citizenship have in reality urged them to withdraw from the political life of the country. Such a proceeding would be regarded in the United States as a grave injustice to the Cuban people, and would place any party adopting such a policy not only beyond the pale of the political life of the country, but as indicative of their incapacity to participate in a fruitful and constructive way in the development of democratic institutions. The withdrawal of any element from the national elections will in no way influence the policy of the United States to regard the result of a fair election as expressive of the national will. This Government will therefore expect all citizens of Cuba, whatever their political affiliation, to accept and abide by the results of such an election. Any other attitude on the part of the Cuban people, or any section thereof, would not only be destructive of the best interests of the Island but would seriously menace the orderly political development of Cuban institutions."

COLBY

837.00/1650

The Minister in Cuba (Long) to the Secretary of State

No. 64

HABANA, April 2, 1920.

[Received April 8.]

SIR: I have the honor to transmit herewith, as stated in my telegram of April 1, 3 p.m.,¹⁷ a copy of supplementary memorandum by Dr. Desvernine expressing his views on the amendments of the electoral law, other than article No. 120 thereof.

I have [etc.]

BOAZ W. LONG

[Enclosure]

*Memorandum by the Cuban Secretary of State (Desvernine)
Regarding the Amendment of the Electoral Law*

In my previous memorandum¹⁸ I almost exclusively considered the Amendment to Article One Hundred Twenty of the Electoral Law on the subject of coalitions, because this article has been the main subject of discussion in Congress and in the public press and as to the other amendments to the Law, I only made a cursory mention

¹⁷ Not printed.

¹⁸ See telegram no. 81, Mar. 28, from the Minister in Cuba, p. 7.

of them to the effect that they did not substantially affect in the least any of the provisions of the articles to which they refer.

It may be added now in regard to those other amendments that they had not been the subject of any objections either in Congress or in the leading newspapers of Havana, as I am reliably informed by persons who have followed through Congress and public opinion the whole process of this matter and are, accordingly, well posted on all its aspects.

Nobody has indeed impeached any of these articles in Congress and I am assured by absolutely reliable persons that no debate was held either in the Senate or in the House on the changes to the Law brought about by these other articles, which plainly shows that they do not affect any one of the substantial principles of the Law drafted by General Crowder.

A slight consideration of the amendments will show this at once. Article Third, for instance, amends Article Two Hundred and Forty Eight by simply inserting in it a provision allowing an appeal from the decisions of the "Central Electoral Board", which appeal must be filed by at least five electors, as a means of protection against possible errors of that Board.

As can be easily seen, this amendment allowing an appeal cannot be of a nature not only to conflict, but even to affect, in the least, any of the principles on which General Crowder's Law does really rest and, accordingly, nobody could have apprehended that such a modification could be looked upon as a small piece of legislation against the spirit and purpose of the Electoral Law.

Article Fourth, amending Article Two Hundred and Eighty Four, is equally consistent with the provisions of the article to which it refers, for the amendment only provides that besides the *ex-officio* members provided for in that article for the Executive Committee, there should be added those who may also be *ex-officio* members of their respective Assemblies, but without the right to vote.

The Executive Committee is, therefore, left in all its original integrity, as provided for in General Crowder's Law, since the addition of five *ex-officio* members more, but without granting them the right to vote, cannot have another import than that of a nature of supervision and of more publicity in regard to the Executive Committee.

The modification introduced by Article Six of the Amendment Law has had as its sole aim to facilitate the prevention and remedy of such frauds as may be discovered and it only provides the procedure which a voter must follow in case he may wish to withdraw from one political party and become a member of another political party.

And these are the only amendments contained in the Law dated the twenty sixth of March of the year nineteen hundred and twenty in regard to which no doubt could have been entertained as to the powers of Congress to act regarding the matter which is one entirely and purely of current and normal legislation.

837.00/1652

The Secretary of State to the Minister in Cuba (Long)

No. 58

WASHINGTON, April 13, 1920.

SIR: I have to acknowledge the receipt of your despatch No. 68, of April 5, 1920, with enclosure,¹⁹ in which you state that the President of the Liberal Party, General Guerra, stated that it was the desire of the Liberal Party to have the United States Government supervise the coming elections in Cuba and asserted that if this Government did not supervise the elections, the Liberal Party would remain away from the polls.

In this connection I have to inform you that recent events have not changed the Department's position as to intervention, as it is still relying upon the assurances given by President Menocal that fair elections would be held in Cuba, as expressed in President Menocal's note to the American Minister, the Honorable William E. Gonzales, dated Havana, November 3, 1919, a copy of which was transmitted to the Department with despatch No. 1103 of November 7, last.²⁰

With regard to the Liberal Party's refraining from taking part in the elections, the Department's policy as outlined in Department's telegram of March 31, noon, has not changed. Basing your action upon the policy as outlined in that telegram, you may, when in your judgment the time seems appropriate, orally inform members of any political party expressing an intention of withdrawing from the elections, of the attitude of the Department.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

837.00/1670: Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, May 23, 1920—3 p.m.

[Received 4:59 p.m.]

117. Conservatives this morning nominated without opposition Rafael Montalvo as presidential candidate. Selection of vice-presi-

¹⁹ Neither printed.

²⁰ *Foreign Relations*, 1919, vol. II, p. 79.

dent postponed pending agreement with Zayas coalitionists who will probably be permitted to name candidate. Major Stephenson requests General Crowder be notified.

WHITE

837.00/1673 : Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, May 27, 1920—3 p.m.

[Received 6:30 p.m.]

119. General Electoral Board yesterday recognized Partido Popular Cubano of Doctor Alfredo Zayas as a national party.

WHITE

837.00/1684

The Secretary of State to the Chargé in Cuba (White)

No. 107

WASHINGTON, June 4, 1920.

SIR:

There seems to be some question as to whether or not the Liberal Party understands that the Department of State has informed President Menocal that the Government has no intention to accede to the request of the Liberal Party for the supervision of the approaching elections. The Department deems it desirable to make this point clear to the citizens of Cuba as well as to bring to their attention the remedies prescribed by the election law for the inspection and recording of the difficulties which will inevitably arise during the next six months.

You are therefore instructed to send to the Minister for Foreign Affairs, a note in the following sense, with the request that it be transmitted to the President of Cuba, and by him given publicity:

“During the last few months the American Legation has received a number of complaints from members of one of the political parties of Cuba, asserting irregularities in the conduct of the election procedure.

In view of the character of these complaints and in view of the further fact that the Legation is likely to receive further representations from members of the different political parties of Cuba, it seems necessary to invite the attention of the Cuban people to the desirability of availing themselves of the remedies so clearly set forth in the Election Law.

The fact that criticism has been levelled, even in these early stages of the electoral process, at Your Excellency's Government, recalls to mind that when the Liberal Party in 1919 requested American supervision of the approaching elections, it was deemed to be

inappropriate to comply with that request, in view of the assurances given by the President of Cuba to the effect that a fair and free election would be held, and because it was felt that the electoral law provided processes which would enable Cubans themselves to investigate, ascertain the facts with reference to alleged irregularities and avail themselves of the procedure prescribed by law for their correction. To this end provision has been made in Chapter 14 of the electoral code for prompt investigations and findings in fact of all complaints against the electoral administration. Under Article 256, paragraph 3, the Central Electoral Board may delegate to one of its own members the duty of making an investigation of the graver charges.

It is not surprising that complaints and assertions of abuses should be made during the electoral period, but it is hoped that each such charge which is entitled to respectful consideration will be investigated promptly, so that, in the interest of fairness to the administration in power as well as to all national Cuban parties, the facts may be known. These charges should be made in writing, properly verified, under regulations to be prescribed by the Central Electoral Board of Cuba, under authority of Article 52 of the Electoral Code. These Regulations should establish the procedure necessary to make available, under ample safeguards, the provisions of Chapter 14 of the Code, to the end that ample opportunity shall be extended to all complainants to invoke the remedies provided in said Chapter.

In 1917 when my Government was confronted with the necessity of passing upon the legality of the conduct of the 1916 elections, there was a vast volume of charges but a startling lack of proof. It was this fact, as much as any other, which caused provisions for investigating and reporting upon irregularities and frauds to be incorporated in the new Electoral Law. Should the legality of the approaching election be similarly questioned, the authority required to pass upon it will be at a very great disadvantage unless each charge of unfairness has been promptly investigated under the provisions of Chapter 14 of the Electoral Law of 1919, and a finding of facts duly made.

It would appear to be unwise to delay such investigation and each offense should be looked into fully and reported upon accurately, immediately after the alleged commission of fraud, otherwise, witnesses will disappear and the difficulties incident to obtaining trustworthy evidence will be greatly increased.

The ability to judge of the fairness of the 1920 elections will depend very largely upon the faithful and opportune carrying out of the provisions for the prompt investigation of alleged unfairness or frauds, so liberally provided for in the new Electoral Law. Little consideration can be given to the assertions of one party against another unless such assertions are substantiated by proof obtained in the manner so clearly set forth in the law under discussion."

Should President Menocal fail to make public the text of this note within a reasonable time, you will so inform the Department.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

837.00/1695 : Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, July 12, 1920—noon.

[Received 4:13 p.m.]

147. Liberal National Committee yesterday met and nominated José Miguel Gomez for President. Meeting adjourned without naming vice-presidential candidate.

WHITE

837.00/1702 : Telegram

The Secretary of State to the Chargé in Cuba (White)

WASHINGTON, July 17, 1920—4 p.m.

114. Minister Céspedes has suggested the advisability of submitting to President Menocal a statement to be given out by him to the Cuban people, which embodies the points made in Department's instruction of June 4th. Rough draft proposed statement being sent for your information.²³ Should same be published last paragraph instruction under discussion might be disregarded.

If nothing develops by middle next week you might inquire what impression was produced by Minister Céspedes' proposal.

COLBY

837.00/1705 : Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, July 23, 1920—11 a.m.

[Received 7:44 p.m.]

160. Department's 114, July 17, 4 p.m. Minister Céspedes' suggested statement was not received by the President until late Wednesday. He is still studying it and will consult Doctor Desvernine as soon as latter's health permits. Secretary of State told me this morning decision will probably be reached within next two or three days, and that statement will probably be issued by president of Central Electoral Board stating it comes from the President as he has charge of electoral matters.

WHITE

²³ Not found in Department files.

837.00/1725

The Secretary of State to the Chargé in Cuba (White)

No. 157

WASHINGTON, August 12, 1920.

SIR: The Department has received your despatch Number 308 of August 2 last,²⁷ advising the Department that while the President of Cuba has definitely stated that he will publish the statement based on the declaration suggested by Doctor Céspedes, he has not yet informed you of the date upon which this statement will be made public.

You state that the President contemplates issuing this statement when the electoral period begins, but that you are not certain as to whether this implies August 29, when certificates of nomination must be filed with the proper Municipal Board or September 16, which is prescribed in the Electoral Code as the last day for presenting certificates of nomination which have had some defect when originally presented. The Department is of the opinion that the electoral period must be understood to begin upon August 29, which is the last day upon which certificates of nomination of all candidates must be filed. The period between August 29 and September 16 is merely an additional period for correcting defects in the certificates already presented. If you, therefore, have reason to believe that the President intends delaying the publication of the statement above referred to beyond August 29, you are authorized to state to him that the Department feels it highly desirable that this statement be made public upon August 29, the date which marks the commencement of the electoral period proper.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

837.00/1737

The Secretary of State to the Chargé in Cuba (White)

No. 166

WASHINGTON, August 25, 1920.

SIR: The Department observes from your August 24, 7 p.m.²⁷ that President Menocal has not made public the purport of its note of June 4, as was to be expected from the assurances of the Cuban Minister to Washington.

About July 15 Minister Céspedes called at the Department to describe the embarrassment in which President Menocal would be

²⁷ Not printed.

placed (through decline in the prestige of his administration) should he publish ours of June 4 and suggested that the President might easily make public the points or substance of our note. The Minister transmitted to his Government a redraft of the document worded so that President Menocal might give it to the press or issue it as a message to the Cuban people.

If, by the time this instruction reaches you, President Menocal has adopted either suggestion, without material changes in text, the necessity for your Legation to make public the Department's note under discussion will have disappeared; otherwise you may inform the President that if acceptable publicity is not given to the note in three days your Legation will publish it. Should the President of Cuba fail to act you will publish the note in the manner which seems to you to be most appropriate.

I am [etc.]

BAINBRIDGE COLBY

837.00/1737

The Secretary of State to the Chargé in Cuba (White)

No. 167

WASHINGTON, August 25, 1920.

SIR: The Department is very desirous that the approaching elections shall be properly held and wishes to do nothing to embarrass well intentioned Cubans. Such however, is the importance to be attached to this Government's attitude with respect to the approaching elections that it is deemed to be appropriate in any event to make clear its position. To this end you are authorized to issue, as soon after the publication of the purport of the Department's note of June 4 as you deem to be expedient but not later than September 12, the following statement:

"During the past few months there have appeared in the Cuban newspapers various statements to the effect that the Government of the United States favored certain designated persons for the presidency of Cuba. My Government has authorized me to state that the sole interest of the Government of the United States in the approaching presidential elections in Cuba is that these elections shall be conducted in such a way as to secure the freest and fairest expression of the popular will of the Cuban people, and that the candidate thus securing the highest popular vote shall be declared President-elect of Cuba.

"When the United States Government was requested to pass judgment on the 1916 elections, it found a woeful lack of properly taken evidence to serve as the basis for reaching a decision. The new electoral law supplies the machinery for collecting evidence of irregularities, and it is hoped that the Cuban people will make use of the agencies thus placed at their disposal.

"When the United States Government was requested by one of the political parties in Cuba (October 1919) to supervise the 1920 presidential elections, the American Legation consulted with President Menocal and accepted his assurance that he would answer for the strict fulfillment of the new electoral law in the 1920 elections, in so far as such fulfillment depends upon the Government.

"The responsibility for the conduct of a fair and free election thus rests with the Government and people of Cuba. The United States Government hopes and believes that there will result from this new procedure that clear definition of each and every electoral situation which will eliminate all controversies as to the actual facts and facilitate a conclusion upon the issues raised by those facts.

"Notwithstanding the expectation of this Government that the new procedure will be followed by the Government of Cuba, still the exceptionally close relations existing between Cuba and the United States; the fact that the new electoral law is for the first time being put to the test; and the further fact that the United States may again be called upon by the Cuban people for a decision regarding the fairness of the election, makes it incumbent upon the Government of the United States to use all available means to observe the conduct of the electoral procedure in Cuba, as well as the spirit in which the electoral law is being enforced.

"The Government of the United States does not propose actually to supervise the elections. However, *it is by treaty pledged* to 'the maintenance of a government in Cuba adequate for the protection of life, property and individual liberty'. It is, therefore, unalterably opposed to any attempt to substitute violence and revolution for the processes of government. I am desirous to emphasize the fact, however, that it is no less opposed to intimidation and fraud in the conduct of elections as such procedure might be effective in depriving the people of Cuba of their right to choose their own government.

"The Government of the United States hopes and expects that the Government and people of Cuba will profit by the new electoral machinery and by the lessons of the past to hold elections which may be recognized as just and fair, and which may inspire confidence for the future."

This instruction should be considered as supplementary to Department's No. 166 of August 25, 1920.

I am [etc.]

BAINBRIDGE COLBY

837.00/1737: Telegram

The Secretary of State to the Chargé in Cuba (White)

WASHINGTON, August 26, 1920—7 p.m.

143. Your 191, August 24, 7 p.m.³⁰

Department approves of your urging upon President Menocal the importance of making public the purport of its note transmitted to

³⁰ Not printed.

you on June 4, but has no objection to its taking the form suggested by Doctor Céspedes. There was transmitted to you today by special pouch a statement to be issued by you to the press setting forth the Department's position with respect to the approaching elections, which should be published immediately after prior statement has been published by President Menocal. Pertinent portions of statement may be shown confidentially to leaders of the Liberal Party before publication, if you believe there is danger that the Liberal Party will vote on August 30 to remain away from the polls. If such a step is to be seriously considered by any group you may hand the leaders also a paraphrase of Department's telegram 60, March 31, noon, which sets forth the attitude of this Government regarding such a course.

COLBY

 887.00/1742: Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, August 27, 1920—7 p.m.

[Received 9:27 p.m.]

194. Conservative meeting just over, Zayas nominated coalition candidate and General Francisco Carrillo reported chosen as candidate for Vice President, although Legation as yet unable to confirm this last.

It is reported that Liberals will send commission of three or five members to Washington next Wednesday to ask for supervision or neutrality on the part of the American Government; that is, they want the United States Government not to interfere if there is a revolution.

WHITE

 887.00/1745: Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, August 30, 1920—2 p.m.

[Received August 31—1:06 a.m.]

197. The President's promised statement was issued in an extra edition of the *Official Gazette* yesterday evening and was published in last night's and this morning's papers. It follows rather closely first three pages of Minister Céspedes' version as communicated to Legation in Mr. Long's personal letter of July 16.²¹ The main

²¹ Mr. Long was then in the United States; no copy of his personal letter has been found in Department files.

points of last two pages of Céspedes' note are incorporated in earlier part of statement which also says that Executive power did not intervene in making code and cannot intervene in [its] application, this is function of electoral boards and law courts and all Cubans are called upon to fully use these means of settling all electoral complaints. The President states he cannot and should not accept responsibilities which the Electoral Code does not impose on him but he will firmly carry out the duty imposed upon him of maintaining order, obliging every one to respect the rights of others and, in so far as legitimately depends on him, to see to the free exercise of their electoral boards and tribunals called upon by the Code to assure the rights of all.

The proclamation then states that the action of the Conservative Party in forming coalition with Zayas is an earnest hope of good faith in the coming elections and states that the Government [has] no other direct interest in the present elections than that they should take place in perfect peace and legality so that the one obtaining most votes should win without complaints and protests. The [President] calls [it] the duty of all to vote at coming elections, confident in the guarantees of the law as regards the electoral operations and in the protection of the Government and tribunals as regards the security of persons and goods.

The Department's instructions number 117 [167], August 25, received today. General Guerra informed me this morning he hopes Assembly which meets at 2 p.m. will decide to go to polls. He personally favors it but many Liberals from provinces are opposed. I showed him confidentially portions of the statement which the Legation will give to the press this evening for publication tomorrow morning in accordance with your 143, August 26, 7 p.m. He made a few notes of it to communicate personally and confidentially to two or three of the more turbulent Liberal leaders before today's Assembly. Liberal press seems more favorably inclined towards going to polls and I feel confident that Assembly today will decide to do so.

WHITE

837.00/1742: Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

WASHINGTON, August 30, 1920—6 p.m.

148. Your August 27, 7 p.m. You are instructed to refer to the Department's telegram of March 25, 6 p.m. last paragraph. If the report is confirmed that Liberals intend sending Commission to Washington for the purpose stated by you, you may say to the

leaders of the Liberal party that the Department is of the opinion that no good purpose will be served by a conference in Washington with the representatives of any political party in Cuba, and that the attempt to transfer the center of political activity from Cuba to Washington is harmful to the best interests of Cuba and is fruitful of endless misunderstandings.

DAVIS

837.00/1766

The Minister in Cuba (Long) to the Secretary of State

No. 400

HABANA, September 16, 1920.

[Received September 22.]

SIR: I have the honor to inform you that I reached my post about noon on September 8th, and called on President Menocal the following morning, on which occasion it did not appear to be appropriate to broach the question of General Crowder's coming here to observe the oral [*electoral*] procedure.

On Wednesday, September 15th, I had an interview with President Menocal, of which the following is a report:—After exchanging the customary courtesies I explained to the President that my return to Habana somewhat earlier than had been expected grew out of the unrest which appeared to exist in Cuba and the apprehension that the presidential election if carried out as it appeared to have begun might lead to bloodshed. . . .

. . . I told him that my Government feels that it is consistent with its formerly expressed attitude, its responsibilities and duties, to avail itself of impartial information obtained by its own representatives relating to all electoral matters out of which serious trouble might grow, and that we feel we should avail ourselves of those best qualified to perform this service of observation; not with the idea of supervising it, but with the idea of observing the unfolding of the electoral process.

Here President Menocal broke in and said:—"I think it is a good thing that you have come back, as you are probably the best qualified American to perform the service you have just described". I replied that I could not agree with him, as there was no comparison, for example, between my experience, so far as electoral procedure was concerned, and that of General Crowder, and that some of the officials of our Government had been wondering whether it would not be an excellent thing all around for General Crowder to be invited to come to Cuba to perform this work of observation, it being felt that the presence of the General would at once tend to

have the effect of impressing the Cubans of our earnest desire to be as helpful as possible in the application and interpretation of the electoral law during its first trial. Moreover I added that an invitation to the General from the President of Cuba would silence many of his critics.

President Menocal interrupted me constantly from the time General Crowder's name was mentioned, and insisted that he was being placed at a great disadvantage on account of the publicity campaign being carried on by the Liberals with the object of showing that he intended to win the election through irregular means. He asserted that this campaign was so constantly waged that there are those who may even believe his motives are improper, . . .

President Menocal stated that he did not see how General Crowder could be brought here before the elections without adversely affecting the prestige of the Conservatives, and particularly without reflecting upon him personally, as the Liberals had always sworn that they would get General Crowder down here one way or another, and if he actually came they would hail it as an evidence of the fact that they had great influence at Washington. The President stated that he would be delighted to have the General come down as his guest after November 1st, if he wanted to come to Cuba, but that he could not see his way clear to accede to the coming of General Crowder at this time, . . .

I have [etc.]

BOAZ W. LONG

837.00/1761: Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, September 19, 1920—9 p.m.

[Received September 20—6:54 p.m.]

216. Attention Norman Davis:

My letter of September 17th.³⁴ There are now at Camaguey only about 150 marines. Hope you will take steps to increase to 500 as suggested.

As there are more than 20 important towns within easy reach of Camaguey which should be covered for at least two weeks prior to elections and my staff observers cannot possibly cover the ground, respectfully suggest that increase in marines include 20 or more officers or non-commissioned officers who speak Spanish and are capable of performing intelligence duty. It would greatly accommodate us if these might be selected among those who were present

³⁴ Not found in Department files.

during the second intervention. It would be necessary to have Navy instruct disbursing officer Camaguey supply marine observers with subsistence \$5, hotel \$3 daily and with necessary traveling allowance; also that commanding officer at Camaguey be authorized to issue such travel orders as might be required.

LONG

837.00/1761: Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, September 23, 1920—4 p.m.

167. Your September 19, 9 p.m.

Before reaching decision regarding request to increase number of marines now stationed at Camaguey, Department desires information as to why you have reason to believe that the lives and property of American citizens in Camaguey will be endangered during electoral period. Please cable full report.

Department regrets that it is unable to approve your request that officers from the Marine Corps be used for intelligence duty.

COLBY

837.00/1769: Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, September 25, 1920—noon.

[Received 6:45 p.m.]

227. Department's telegram 167, September 23rd, 4 p.m. Request for additional marines Camaguey based on necessity for protection sugar interest owned by Americans in four eastern provinces. It is estimated that a considerable percentage of total sugar production of 1920 crop controlled by American interests. English, Spanish and other foreign interests are also important. It is openly stated by partisans of both parties that in event of revolution or other disturbances American interests will be first to be destroyed.

LONG

837.00/1769: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, September 27, 1920—5 p.m.

171. Your September 25, noon.

The Department is exceedingly reluctant to send any additional marines into Cuba at this time because of the delicate situation

which exists. You may, however, discuss the matter informally with President Menocal and if, in your opinion, such representations are wise at this time, express to him your fear that the Cuban troops in Camaguey are insufficient in number to cope with any serious disturbances which may arise as a result of the elections. If the President should then reply that he was unable to increase the number of Cuban troops in that province as a precautionary measure, but would be glad to have the number of American marines increased, the Department would be inclined to view the suggestion that additional marines be sent to Camaguey more favorably.

DAVIS

837.00/1772 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, September 27, 1920—5 p.m.

[Received 11:09 p.m.]

228. Supreme Court September 25 upheld Zayas against Montalvo as legal candidate of the Conservative Party for President in the elections. This decision clears the way for the National League. Details by mail.⁸⁶

LONG

837.00/1791

The Minister in Cuba (Long) to the Secretary of State

No. 426

HABANA, October 1, 1920.

[Received October 7.]

SIR: I have the honor to report in reply to the Department's telegram of September 27, 5 p.m. that President Menocal yesterday informed me that he did not care whether the number of Marines at Camaguey are [*sic*] increased or reduced, but that he was interested in having nothing done which will show any lack of confidence in his ability to deal with the situation. He said he was confident his political opponents would make capital of any public announcement that more troops were to be sent unless a good reason for sending them was given; that if the Liberals suggested an increase in Marines then he preferred that their petition be disregarded. I assured him that no Liberals had broached the subject to me; that it had naturally occurred to us that if trouble developed American property might be the first to suffer and that the possibility of being called upon to facilitate the protection of American lives and property caused us

⁸⁶ Not printed.

to consider the advisability of increasing the Marines. I added that no Liberals had made such a request and that our idea in speaking with him regarding the matter was to obtain his opinion before a decision should be reached.

. . . He concluded by remarking that he felt confident the Government forces could protect American property and stop any burnings which might take place, but that he was not opposed to an increase in Marines provided it could be accomplished quietly. . . .

If the burning of American cane fields and other property should begin, with the idea of producing intervention, it would not be likely to take place in a limited area but to be scattered pretty well throughout the various provinces. . . . I do not doubt the intent to give protection, the disposition of the present constituted authorities is not in question. Whether the Cuban Army, presupposing that it would be absolutely faithful to the Constituted Government, could be mobilized in time to save millions of loss and the destruction of a crop so badly needed by the world, is to be considered.

I have [etc.]

BOAZ W. LONG

837.00/1797

The Minister in Cuba (Long) to the Secretary of State

No. 428

HABANA, October 5, 1920.

[Received October 14.]

SIR: I have the honor to make this report on special representatives of the Secretary of Government commonly referred to as Military Supervisors:—

The so-called Military Supervisors, officially termed Delegates of the Secretary of Government, are agents of the Department of the Interior or of the President acting through this Department. Although Army officers by profession, these supervisors are detached from the ordinary organization of the army so that they function in a civil capacity. In this manner they are protected from the orders of their military superiors. Indeed, they are given power to call upon the forces of "*Orden Publico*" (commonly known as the Rural Guards) when the Municipal police are not considered adequate.

Essentially the appointment of a Military Supervisor to a municipality means an intervention by the National Government into municipal affairs. Ordinarily the Alcalde (Mayor) controls the police force of a city through the Chief of Police. A Military Supervisor takes over the powers of the Chief of Police with the important difference that he is not responsible to the Mayor of the

city in question, but instead to the Secretary of Government. It will readily be seen that in a municipality under a Liberal Mayor the appointment of a Military Supervisor responsible to a Conservative National Government might have important political effects. The Mayor is left without powers to enforce his orders.

The appointment of a Military Supervisor is by Presidential Decree. In such decrees reference is made to the constitutional powers by virtue of which the President acts. The Supervisor is then named and his duties defined "In the character of Delegate of the Ministry of Government he shall take charge of the maintenance of public order in the municipality of . . . ,"⁸⁹ being authorized to adopt whatever means he may esteem conducive to the attainment of that end, and that he shall assume the direction and government of the Municipal Police".

The power of the President to intervene in the affairs of a municipality is, of course, based on an actual condition of lawlessness, or on grave danger of a rebellion, and is not intended to be exercised for a purely political advantage. But many factors enter into the determination of what is or is not a proper occasion for Presidential interference. At the present time a large proportion of the Cuban public are bearing small arms, with or without license, and the high political feeling in some quarters causes uncertainty as to the security of public order. Therefore it is not unlikely that some appointments of Military Supervisors may be well considered for the good of the public. The Liberals are not objecting so much to the principle according to which Military Supervisors are appointed as they are to the personnel and to the localities chosen. For these localities are mostly those now under a Liberal Mayor or are considered Liberal strongholds, and the appointees are men in the confidence of a Conservative Administration.

There is no doubt but that the use of many so-called Military Supervisors will have a marked effect upon the common trend of thought. The Liberals by threats of rebellion and destruction of property have been exercising the strongest kind of moral intimidation and any show of force by the Government that will lessen the chances of such a rebellion may affect voting. Most property holders are praying that this trying time may pass without burnings of cane and other violence.

I have [etc.]

BOAZ W. LONG

⁸⁹ Omission indicated in the original.

837.00/1791 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, October 11, 1920—3 p.m.

187. Department's telegrams of September 23, 4 p.m., and September 27, 5 p.m., and your despatch 426 of October 1.

Department desires the expression of your personal opinion as to whether an increase in the number of Marines stationed at Camaguey is necessary for the protection of property. Transmit by cable as well any information you are able to obtain from the owners of plantations in that district tending to show that there is real and imminent danger of attempts to destroy such property. . . .

In view of the statement of the President that he would not oppose an increase in the number of Marines, the Department might possibly view the suggestion more favorably, but it has felt that the effect on public opinion in Cuba of the knowledge that our forces were being increased would be unfortunate and that, therefore, such a step should only be taken if you are able, after carefully reviewing the existing situation, to recommend such action.

COLBY

837.00/1800 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, October 13, 1920—1 p.m.

[Received October 15—4:50 a.m.]

241. Department's October 11th, 3 p.m. Increase of marines at Camaguey would insure safety for property in three sensitive provinces of Santa Clara, Camaguey and Oriente. Both Santa Clara and Oriente more sensitive than Camaguey which is located between them. Present garrison of Camaguey so small that in case of emergency it would not be safe to reduce its strength by sending detachments to other sensitive provinces. However, if this garrison is greatly increased detachments may be held in readiness to proceed to other sensitive provinces [in] case of disturbances. No definite information from plantation owners in district mentioned that attempts have been made to destroy property. Most effective destruction consists of burning cane. A firebrand does that work in an instant. However, property in all three sensitive provinces is in jeopardy and suggested increase of marines would be an insurance against the possibility of such excitement.

LONG

887.00/1822a

The Secretary of State to the Minister in Cuba (Long)

No. 212

WASHINGTON, October 20, 1920.

SIR: Under the requirements of the Cuban Electoral Law the polls will close upon the election day at 3 p.m., throughout the Island. It is understood that the scrutiny by the College Boards of the votes cast should be well advanced by 6 p.m., when the returns by telegraph will begin to be received in Habana. As you are aware, the scrutiny by the College Boards must be completed by midnight of the election day, or stopped and all documents transmitted to the Municipal Boards which will complete the scrutiny.

The Department considers it of the highest importance that the returns be made public by the proper authorities in Habana from time to time as they are received after 3 p.m., on the day of the elections. You will recall the public dissatisfaction which was occasioned and the disturbances which arose by reason of the action taken by the Government in 1916 in ceasing to publish the election returns when the scrutiny was only partially completed.

The Department desires you therefore to call upon President Menocal and inform him of the earnest hope of this Government, in view of its deep interest in the conduct of the Cuban elections, that instructions may be given to the proper authorities, notably the Department of the Interior, to arrange to have the election returns published as they are received by means of posters or flash-lights readily accessible to the public. It is particularly desirable that arrangements be made by the Department of Posts and Telegraphs for an official and uninterrupted telegraph service so that the returns may be received without delay. The Department would be glad to have you receive assurances from President Menocal that such measures have already been taken, and that arrangements have likewise been made for the publication of the telegraphic returns to the end that the public desire for information will be met, and that there will be no interruption of this publicity or any withholding of despatches, such as took place in 1916.

In conclusion, the Department feels it highly desirable that an official announcement be made by the Secretary of the Interior or by the Central Electoral Board advising the public that the arrangements above indicated have been perfected. The Department desires that you inform it as soon as possible whether the President has already taken, or is willing to give you assurances that he will take, the measures above suggested.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary of State

837.00/1809 : Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, *October 20, 1920—2 p.m.*

196. Your telegrams no. 241, October 13, and no. 254, October 19.⁴⁴

The Department submitted to the President the proposition to send American warships to Cienfuegos, Habana, and Santiago as a precautionary measure. Their presence, it was hoped, might serve to forestall any disturbances of a grave nature. The President does not believe that this measure, or any like it, would at this time be advisable. In his opinion, this action by our Government would be taken in Cuba as an evidence of our partiality for one or the other of the two leading political parties. Neither does the President approve making any increase in the force of marines at present stationed in Cuba.

Until the proof should be clear that the Cuban Government is incapable of protecting life, property, and individual liberty, the President considers that the rights of the United States in Cuba do not go so far as to allow this Government to embark on the course of action indicated above, which could be interpreted as an intervention.

COLBY

837.00/1822a : Telegram

*The Secretary of State to the Minister in Cuba (Long)*WASHINGTON, *October 22, 1920—7 p.m.*

202. The Department has been much concerned by the numerous reports which have reached it, including those transmitted through your Legation, alleging that many voters have been deprived by fraud of their cards of identity. It is feared that these occurrences, which appear to be well substantiated, will give rise to general popular discontent with the manner in which the elections are being conducted. The Department has likewise been caused grave anxiety by the unprecedented number of military supervisors appointed by the President, . . .

If a favorable opportunity presents itself, the Department desires that you advise President Menocal, informally and discreetly, of the concern which the Department feels by reason of the above. . . . It is believed that a circular instruction addressed by the President

⁴⁴ Latter not printed.

to all the military supervisors appointed by him, urging upon them an attitude of strict impartiality during the election period, if made public would have a most beneficial effect upon popular sentiment and tend to restore popular confidence in the manner in which the elections are being conducted. Inform the President likewise that this Government believes that any measures which the President might take to put a stop to the obtaining of "cédulas" from voters by fraud or corruption would produce a most favorable impression.

COLBY

887.00/1826a: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, October 25, 1920—4 p.m.

207. The statement made public August 30 by the Legation in Cuba as well as President Menocal's proclamation on August 29th⁴⁵ have effectively relieved the tension in the United States as well as in Cuba which had existed from fear that the Government would resort to unfair methods in the election. In both countries confidence is felt that the approaching contest will be a true test of the strength of the two parties. An evidence of this sentiment is the certainty with which each party looks to a triumph in the forthcoming election.

The President's proclamation and the statement issued by the Legation had to do principally with electoral registration. It is to be regretted that the pre-election period has been marked by disturbances and breaches of the public order, as well as crimes of the most serious nature, and that these have taken place both before and after the issuance of the proclamation and the statement, but in number and significance they have not been such, it is believed, as to indicate as great a proportion of unfairness in electoral methods as has existed hitherto at election periods.

The Department is informed that Military Supervisors have been appointed in larger numbers for this election than for any preceding. No public statement from President Menocal, as far as is known to the Department, has made it clear to the Cuban people why this large number is necessary, nor has the Department any information to show that precautionary instructions emanating from high authority have been issued to safeguard the proper exercise by the supervisors of the exceptional jurisdiction vested in them for emergencies;

⁴⁵ See telegram no. 197, Aug. 30, from the Chargé in Cuba, p. 19.

guarantees for the discharge of their duties with a perfect fairness appear to be lacking. If the President has placed himself and his administration on record by issuing a proclamation instructing the supervisors in the most explicit and definite manner that their authority can be, and has been invoked as readily and confidently by the one as by the other party, the Department would be less apprehensive; for the same reason there should not be the slightest doubt left that the military forces of Cuba engage upon this role of assistants to the civil authorities committed to an attitude of complete neutrality as regards the two parties, and that their instructions will be fearlessly executed. It should also be made clear that any departure from this attitude will result in the prompt suspension from duty of the offending supervisor. Such a proclamation by the President, the Department trusts, has been made following the representations you were instructed to make to him following the receipt of the Department's telegram of October 22, 7 p.m.

A further proclamation should, in the Department's opinion, be issued promptly by the President in regard to electoral administration in future. You are instructed so to inform the President with the urgent recommendation of this Government of the desirability of such a proclamation, but will not attempt to dictate its phraseology to him, although its more essential provisions, in the Department's judgment, should include: (1) A message of congratulation to the Cuban people in carefully expressed terms for the orderly manner in which they have approached election day, sufficient evidence of which is the effort made by each party to bring out its full strength in the belief that their ballots honestly cast will be counted as received; mention should be made, however, of the disorderly incidents which have in certain localities tarnished the electoral administration, and are to be regretted. Whatever corrective public action in this connection has been taken should be included in the statement. (2) The most important acts of the electoral administration yet to be accomplished should next be set forth, for example, the manner of composing and constituting the Colleges and College Boards, the designation of the polling places, the method of conducting the vote, the count, and the canvass, together with the way in which the Electoral Law safeguards each of these acts. (3) Obviously prominent notice should be given Chapter XIII of the Electoral Code which makes provision for the corrective action of the courts in deciding cases arising out of elections. Emphasis should be laid on the fact that the courts have not only the authority but the duty to declare null elections in which the provisions of article 242 have been disregarded; and may also nullify elections wherein illegal restriction or obstruction of the ballot has taken place, or where fraud or

serious irregularity has prevented a correct and accurate count. As many of these powers are an innovation in the Electoral Code, it is vitally important to insist upon a courageous exercise of this new jurisdiction. (4) It is the duty of the Presidents of the College Boards at the end of every two hours to announce the number of electors who have voted, which number must be inscribed by the Secretary. The public should be reminded of this fact, as well as of the right possessed by the watchers of either political party to protest the number announced and to have a record made of their protests. (5) The Presidential proclamation should likewise remind the public that the polls close at 3 p.m., and that a complete scrutiny shall be made at as early an hour as practicable; midnight is the dead line in all cases, but in the smaller colleges the scrutiny could be over by 6 o'clock. (6) An item of the greatest importance for the proclamation to impress on the public is that the post, telegraph, and telephone services should be kept open, and equipped to provide for an adequate transmission of the election returns, and for a prompt and continuous publication of the returns as they are received. This procedure was indicated by the Department in its instruction No. 212, October 20. There must be no doubt that the Government will use its powers to the utmost to maintain this service efficiently and that there be no interruption in transmitting the returns and making them public. (7) The President should make it clear beyond any question that the provisions of the Electoral Code, in everything relating to the military and police forces, have been faithfully observed and will be maintained with the same fidelity.

It is not unlikely that you will meet with some opposition from the President when you urge him to issue this proclamation. He may allege that it could more properly come either wholly or in part from the Central Electoral Board. The Department holds that it is highly important that the President should issue the proclamation *in toto* in order that the Executive power may thereby become publicly responsible to the Cuban people for the operation of the Electoral Code. If, however, you meet with determined opposition, you will make every possible effort to have the Central Electoral Board, acting on the President's instruction, issue such portions of the foregoing points as are not embraced in the President's proclamation, in a supplementary statement. In the latter case, the President's proclamation and the Board's statement should not appear later than October 28, and should be disseminated immediately for the widest possible public information.

DAVIS

837.00/1854

The Minister in Cuba (Long) to the Secretary of State

No. 490

HABANA, October 26, 1920.

[Received October 30.]

SIR: I have the honor to report that the Department's telegram (No. 202) of October 22nd, 7 P.M., deciphered late Saturday evening, was taken up with President Menocal on the morning of the 25th and he expressed a disposition to prepare a statement regarding the political situation. I gathered the impression that in effect it would recommend fair play during the election period.

It may be interesting to the Department to receive a more detailed report regarding the preliminaries to this conclusion.

A long conference on the financial situation had been concluded and it was near one o'clock when President Menocal said so many complaints were coming to me about election irregularities that he wanted to emphasize his position as he could afford to let nothing stand that might reflect upon his record. He defended his actions in general terms and asked me if anything which impressed me as of importance had come up lately.

I seized this opportunity to take up with the President the question of the traffic in "Cédulas", then referred to the unprecedented number of Military Supervisors recently appointed by him and to the fact that the Supervisors' actions had given the opposite party reasonable grounds for complaint, adding that this and other irregularities seemed to have produced a general popular discontent with the manner in which the elections are being conducted.

Here the President interrupted me to say that he regretted the traffic in Cédulas and that the electoral boards had not gathered proof to stop such practice. He stated that if I had any specific information he would be glad to act upon it, to which I replied that many reports had reached me to the effect that innocent country people were having to turn over their Cédulas through one intimidation or another. It was also stated that Cédulas had been bought but I had no positive proof of these assertions, which however were so general as to suggest that there must be some truth to it or else the charges would not be so continuous. The President said he did not doubt that trading in Cédulas had been practiced by both parties and that he thought the Liberals had bought more Cédulas than the Conservatives. He thought this trading in Cédulas not likely to produce much popular discontent in which one side was as much to blame as the other, moreover the voters could easily get duplicates or triplicates of their Cédulas before election day if they chose to do so.

He continued in respect of the Supervisors, that it was true a large number had been named, many more than he wished for, but the Liberals had been very persistent in their threats of starting an uprising if this, that, or the other thing did not happen. It was so four years ago when similar threats were not taken seriously but the revolution actually did start then and caught him napping, which experience he did not intend to have repeated now. One by one, he claimed, complaints had come in from different parts of the Island and when they seemed to be justified, a Military Supervisor was selected. Naturally, he commented, he could not select a Supervisor whose loyalty to the Constituted Government was in doubt. The importance of selecting no Liberals was driven home by the fact that Liberal agents had already begun to interview officers of the army in the interest of the Liberal cause, which confirmed him in the conviction that the only proper thing for him to do was to select men who were unquestionably loyal to the Government. Among these, he did not doubt, some had evidenced an excess of zeal to serve the Government and he thought it would be a good thing for him to caution all Cubans to be fair in the approaching election.

I have [etc.]

BOAZ W. LONG

837.00/1850

The Minister in Cuba (Long) to the Secretary of State

No. 505

HABANA, October 29, 1920.

[Received November 2.]

SIR: Referring to the Department's telegraphic instruction No. 207 of October 25th, 4 P.M., I have the honor to report that President Menocal in extraordinary edition No. 45 of the *Official Gazette* issued on the evening of October 28th, and appearing in this morning's press, issued a statement to the Cuban people in regard to the coming elections in accordance with the suggestions made in the Department's instructions under acknowledgement.

A copy of the *Official Gazette* publishing this statement is enclosed herewith, together with a translation appearing in today's *Havana Post*.

A report of an interview which a representative of the Associated Press had with President Menocal, as published in the *Diario de la Marina* of October 28th and English translation thereof appearing in the *Havana Post* of the same date, are enclosed herewith.⁴⁸

I have [etc.]

BOAZ W. LONG

⁴⁸ Not printed.

[Enclosure—Translation ⁴⁰]

Statement Issued by President Menocal to the Cuban People, October 28, 1920

TO THE PEOPLE OF CUBA:

As November first approaches, which is the date set by the Electoral Code for the general elections to take place through the free vote of the citizens for the most important posts of the public administration in the Republic, I deem it my duty to make a new address to all those who are to exercise this important duty, upon the conscientious fulfillment of which depends, perhaps, the future of our country.

In my address of August 29 last, I pointed out how ably and effectively the new Code assures broad guarantees to the voter, it being the work of commissions formed by Congressmen of the two great national parties, efficiently advised by the noted American lawyer who also worked on the previous Code of 1908.

I took special care to call attention to the fact that the new Code has exempted the Government from all intervention in the elections. "To the Electoral Boards and Supreme Courts of Justice," I said in the above-mentioned address, "belongs then, exclusively, without any restrictions whatsoever, the control and direction of the elections. I should, however, like to call the attention of the Cuban people to those dispositions of the new Code, so that all citizens may thoroughly comprehend, if they have not understood it already, their obligation to exercise with vigor, integrity, and devotion the duties and recourses the Code affords, surrounding them with such valuable guarantees of efficiency and independence. With the attributes and rights go the corresponding duties and responsibilities. It is not prudent or dignified to accuse others of faults to which in many cases you yourself may be subject. The citizen who possesses the full resources established by our Code to guard and defend his rights, and does not make use of them, shows that he does not know how to appreciate them, or does not deserve them."

These considerations were not overlooked. Very seldom have electoral groups, and still less the political organizations that aim to direct them, shown more activity, discipline and devotion during the preparatory period that now comes to an end. There has been some cause for complaint, harsh words and threats have been uttered, but the fact is indisputable that the opposition parties have competed with the governmental forces in the work of propaganda and of organization all over the country, making their preparation methodically. They are all pleased with this work, and feel so sure

⁴⁰ File translation revised.

that they will not be cheated of the fruits of their labors, that with keen expectation they see the laurels of victory. Whatever the result is, such activity shows that all are far from considering themselves victims of offense, injustice or arbitrariness, as is sometimes claimed by publicity agents who figure that by such means they can better excite the feelings of their followers or win the favor and even the cooperation of foreign protection, to whose intermeddling no conscientious citizen should look forward if he is aware of his sacred duties.

Political passion has reached lamentable extremes, only in fewer cases than in previous campaigns, and it can be safely assured that most of the citizens are to be commended on the orderly way in which they have gone about the preparatory propaganda work as outlined by the legislators. It has not been necessary, as it has been unjustly claimed, to appoint military supervisors for certain places in larger numbers than on other occasions, and those supervisors have acted, almost without exception, with all due prudence and justice, as was expected from them without cause for legitimate complaints, no matter how hard some might try to make them. Military supervisors have always been needed where the local police force has been too small or notoriously partial, and therefore insufficient to lend the citizens the needed protection for their tranquillity and public protection. The party now in power has not created such supervisors; the law authorizes them, and previous governments have appealed to them whenever they were deemed necessary. I can guarantee that the supervisors in care of such delicate duties will protect all alike, and will respect everybody's rights in the maintenance of public order.

Now comes the deciding period in which the elections are to be performed. The polls have been organized by the Electoral Boards with all the minor precautions ordered by the Electoral Code; the polls have been designated, as well as the places in which they will be located, with all the personnel and material required. All these details have been duly advertised so that everyone may be informed as to where and how they may vote, and it is now up to them to perform their duties as their conscience dictates without any hesitation and with firmness. It should be noticed that the Code had fully explained all acts to be performed by voters, offering them full guarantees for their safety and independence and for the secrecy of the vote.

The public forces will be near enough to protect the voter if asked to do so by the presiding member of the poll, and also far enough

to make any coercion of a voter impossible. Each voter will have the member designated by his own party or by the law to watch for the exact fulfillment of the legal mandate. And in the improbable instance that through omission, bad faith or carelessness, such mandate should not be protected, chapter 13 of the Code—perhaps the most important innovation of the Code—provides quick ways, unused so far, authorizing the national courts to adjust all complaints, conferring full power to investigate and decide them and even to declare void the elections in any college, or colleges, without need of further proof when such complaints are properly backed or justified through documents or by means of sworn statements to show fraud or infractions, as shown by article 242 of the same Code, which comprises every case that may arise.

The voters should see that all duties are performed as prescribed by the law, such as the calling out of the number of votes recorded every two hours by the president of the poll, and this can be enforced by the overseers of each contending party; and the voter should also see to it that voting is called off at 3 o'clock in order to give ample time for counting to be finished by 6 o'clock in the smaller places and before midnight in the larger ones, and the voter should also watch the strict observance of the dispositions that order the issuing of certificates and the publicity of the counts.

The Central Electoral Board, as well as the provincial and municipal ones, are devoted to maintain a careful watch that the execution of all the dispositions of the Code are carried out to the letter. Voters can and should call on them for anything concerning the exercise of their rights and the correct application of the Code.

The Government has other duties to fulfill, and I will see to it that it acts with all exactness and impartiality. I have given out instructions to have the mail, telegraph and telephone services render the most efficient service, so as to make use of them all for information, news, complaints and any other data that may be needed by the authorities, electoral boards, parties, candidates or individuals. The Army is at the disposition of the Central Electoral Board, and, as ordered by the Code, will tender equal protection. I impose upon myself the duty of assuring all citizens, making no exceptions of persons or parties, the necessary guarantees to make the coming elections, as far as possible, the true expression of the national will.

President's Palace, Habana, October 28, 1920.

M. G. MENOCAL

837.00/1890

The Minister in Cuba (Long) to the Secretary of State

No. 535

HABANA, November 10, 1920.

[Received November 16.]

SIR: In amplification of this Legation's telegraphic reply dated November 10th, 3 p.m. [noon],⁵¹ to the Department's telegram of November 8th 6 p.m.⁵¹ I have the honor to report as follows:

On the day of elections and for a few days thereafter public interest in the count of votes ran very high and a great many telegrams came to the Central Electoral Board which made up an unofficial estimate based upon the information then available, no figures were given out officially. It was about this time that the President of the Central Electoral Board acquainted Major Stephenson with the advices they had received up to that time. Immediately thereafter it seems that some one suggested that the telegrams might contain erroneous information, since which time the Central Electoral Board has been loath to give out any advice whatever it being held that they must await the result of the Municipal scrutiny and the reports of the Provincial Boards.

I have found it somewhat difficult to draft a reply to the Department's telegram under acknowledgement, which will cover all of the inquiries contained therein. The Central Electoral Board was closed on Monday and Tuesday owing to the illness of the President. No one seems to know the precise colleges which have failed to report to the Municipal Boards nor is there any way at the moment to tell, some of the colleges having mailed returns to the Central Electoral Board when they should have sent them to the Municipal Boards.

Article No. 192 of the Electoral Code requires college scrutiny to terminate at midnight November 1st whether complete or not. The last paragraph thereof provides that Municipal Electoral Boards shall begin counting returns of colleges, which did not complete scrutiny, within six hours after received. No information has reached me to the effect that the Municipal Boards have failed to respect the law in this regard.

Article No. 199 [196] gives the Municipal Boards eight days in which to complete their returns. This task should be completed at midnight tonight but it is apparent that this cannot be done because most serious delays are occurring. The facts in two instances are at hand and I give these for the Department's information as examples of what may exist in other Municipalities. The uncounted returns for sixty five colleges in this City were turned over to the

⁵¹ Not printed.

Municipal Board of Havana at midnight on November 1st. I am advised that up to November 8th, 11 A.M., twelve had been scrutinized. The Municipality of Cienfuegos similarly received forty eight uncounted colleges; five are said to have been scrutinized November 6th at 4 P.M. At this writing it is not possible to foresee when the reports of the Municipal Boards will be finished. When done they are to be transmitted to the Provincial Electoral Board where, under Article No. 200, five days are allowed in which to complete their scrutiny. When this shall have been done and the returns of the Provincial Boards reach the Central Electoral Board we can hope for an official announcement of results.

If the law were strictly complied with and Municipalities reported November 10th at midnight provincial returns could be available by November 16th or 17th.

Pending the conclusion of official reports there appears to be no other source from which to receive fairly accurate information except through the Director of Communications under the Secretary of the Interior. As his information is obtained from unofficial telegrams which may contain errors, they are, especially where the count is so close, to be accepted tentatively.

Liberal leaders have volunteered to submit a list of the colleges in which no election was held or in which they believe the election as held was illegal. Presumably this will form a part of a comprehensive resumé of their contentions.

I have [etc.]

BOAZ W. LONG

837.00/1876: Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, November 11, 1920—5 p.m.

[Received 10:55 p.m.]

Executive Committee Liberal Party met yesterday and passed resolutions which will be forwarded by next pouch. Text of resolution given to press:

1st. Liberal Party will execute legal remedies to annul elections as the United States will not countenance rebellion against the constituted authority no matter how justified such act might be.

2d. To protest against elections, charging Liga with unlawful methods.

3d. To demand of Washington annulment of elections and of others under American supervision.

4th. To reaffirm confidence in José Miguel Gómez who will choose commission to present case in Washington.

5th. To select commission of seven to prepare Liberals' case.

6th. To recommend attitude of calmness to Liberal voters.

7th. To express patriotic point of order with which Liberal Party passes these resolutions tending obtain foreign action in electoral matters.

Will discourage early departure [of] official commission to Washington, at least until after their case has been fully prepared, unless Department advises otherwise.

LONG

837.00/1876: Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, November 17, 1920—11 a.m.

239. Your November 11, 5 p. m.

The Department considers it highly important that the leaders of the Liberal party be fully advised of the policy of this Government as regards interference with the control by the properly constituted authorities in Cuba of the electoral machinery. It appears to be the desire of the Liberal party to present now to the Department reports of alleged frauds and outrages committed during the electoral period in the hope of inducing this Government to investigate immediately the manner in which the elections have been held and to review the conduct of the Central Electoral Board, basing their request on the ground that the statement of your Legation issued on August 30,⁵⁴ promises such action. It is apparent that such an interpretation of the statement issued at that time is entirely unfounded, since this Government declared that while it would use all available means to observe the conduct of the electoral procedure and the spirit in which the electoral law was enforced, it stated most emphatically that the responsibility for the conduct of a fair election rested with the Government and people of Cuba.

A review of the present situation makes it apparent that no decision can as yet be reached regarding the outcome of the elections, since the official returns are not yet completed and there is no assurance as to which party has been victorious; and since neither party has as yet been able to avail itself of the recourses provided in the election law to bring its protests and complaints before the properly constituted authorities for review and decision, any effort at this time on the part of this Government to hear the complaints of the Liberal party, or of the Conservative party, would remove from the judiciary of Cuba the responsibility which legally and by right rests upon them to hear and decide such complaints. Any action taken by this Government at this time would constitute effectively an uncalled for and

⁵⁴ *Ante*, p. 19.

unwarranted intervention in the internal affairs of Cuba and could not but be regarded as a hurtful precedent which would tend to render more difficult in the future the determination by the Cuban people themselves of the problems which confront them in the development of a democratic and independent government. For these reasons, the Department is not at present willing to receive the protests of the Liberal Commission, nor is it willing to enter into any conversations at this time with the members of this Commission regarding the elections. The Department has availed itself of the excellent opportunities afforded to observe closely the manner in which the elections were conducted and the way in which the Central Electoral Board has functioned and will be able, therefore, to reach its own conclusions from an unbiased standpoint.

You should take occasion to communicate the above verbally to the leaders of the Liberal party and to impress upon them that the attitude so defined has been reached by the Department after careful consideration and that its attitude has changed in no way since the issuance by the Legation of the statement of August 30. You should likewise informally continue to use your best endeavors to prevent the departure for Washington of any commission of Liberals or any other attempt which may be made to transfer the center of Cuban political activity from Cuba to Washington, and explain that all resources provided for under electoral law should be exhausted before any appeal could properly be presented here.

COLBY

837.00/1952b

*The Acting Secretary of State to the Judge Advocate General,
War Department (Crowder)*

WASHINGTON, December 31, 1920.

SIR: By order of the President, you are hereby directed to proceed at once to Cuba as his Personal Representative on special mission. You will proceed to Havana on the U.S.S. *Minnesota*.

Upon your arrival in Havana, you are instructed to obtain at the earliest opportunity an interview with President Menocal and to inform him that the Government of the United States is most gravely concerned because of the very serious political and financial conditions now obtaining in Cuba. As you are aware, the Presidential elections were held two months ago and the result of those elections is as yet unknown. So far as the Department is informed, the provisional returns in all six provinces have been posted by the Provincial Electoral Boards. These returns show certain colleges in which no elections were held, others where the elections have been

declared null and void, and a large number of colleges where the results have been protested by one or the other of the political parties to the courts. The total number of colleges protested and appealed to the courts is sufficient to place the result of the Presidential election in doubt, and from all reports received by the Department there has not only been shown no progress by the courts in deciding these appealed cases, but an indefinite delay in reaching a decision is indicated. It is possible that the final decision may be so much delayed as to necessitate an *ad interim* administration. It is desired that you bring to the attention of President Menocal in the most forcible terms the grave apprehension which this truly alarming condition is causing the Government of the United States.

You should likewise state to him that in the opinion of this Government there appears to have been general failure on the part of the Cuban courts to hasten their procedure in the determination of the contested election cases and that so far as this Government is aware, there has been no indication of any desire on the part of the Cuban Government that special efforts be used to obtain a speedy settlement of the election contests in accordance with the spirit of the Cuban Election Law. It has been represented to this Government, unofficially, that court rules of procedure are obstructing the resolution by the Cuban courts of the contested election cases. Accepting this view, the Government of the United States is convinced that if both political parties in Cuba are genuinely solicitous for a speedy decision by the courts of those cases, they could, by stipulations filed with the courts, greatly expedite the procedure and final determination of the contested election cases, especially if the Cuban Government were acting in harmony with the political parties.

You should not only advise President Menocal of the above, but you should likewise make it altogether clear that the unsettled Presidential election in Cuba has the most important bearing upon the flotation of the proposed Cuban loan in this country⁵⁵ and that American bankers can naturally not be indifferent to the present disturbed conditions, particularly when there is no certainty who the successor to the Presidency will be and when the situation is such that the possibility of serious disturbances is by no means remote.

In conclusion, you may advise the President that the Government of the United States is unwilling to approve any increase in the national debt of Cuba until it is assured that the Presidential succession will be legally and peacefully determined, and finds itself, therefore, unable to take any further action in furthering the negotiations for the proposed loan or to devote any more assistance towards the settlement of the Cuban financial situation unless it has positive

⁵⁵ See pp. 44 ff.

proof that the Cuban courts, with the cooperative assistance of the Government, will faithfully carry out the provisions of the Election Law and will resolve, with the utmost expedition, the contested election cases.

The Department of State will leave to your discretion the making of any further representations to the President in accordance with the desire of this Government that President Menocal be fully advised of the apprehension prevailing here because of the unsettled conditions now existing in Cuba. The Government of the United States will be glad if an opportunity were found to impress upon President Menocal the urgent necessity of immediate improvement in the congested condition of the Port of Havana and in initiating immediate reforms in the Department of Sanitation and of Public Works.

In confirmation of a conversation had with you and in accordance with instructions sent to the American Legation at Havana for communication to the Government of Cuba, it is thought to be particularly desirable that emphasis be laid upon the fact that the present situation in Cuba is proving harmful to commercial intercourse between the United States and Cuba and to the general relations between the two countries and that the resultant detriment to the prosperity of Cuba cannot but be a matter of close concern to the United States.

I am [etc.]

NORMAN H. DAVIS

837.00/1947a: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, December 31, 1920—6 p.m.

276. General Crowder will proceed on January 1, to Habana on the U.S.S. *Minnesota*, at the President's direction, as his Personal Representative on Special Mission. General Crowder carries with him full instructions to represent to President Menocal the very grave anxiety felt by this Government because of the existing political and financial conditions in Cuba and to discuss with President Menocal remedies which may alleviate such situation.

You will inform President Menocal immediately, without comment, that General Crowder is proceeding on this mission by special order of the President. You will be notified from the *Minnesota* by wireless of the date and hour of General Crowder's arrival, in order for you to arrange his interview with President Menocal at earliest moment.

DAVIS

FINANCIAL AFFAIRS

Financial Stringency and Heavy Withdrawals from the Banks—Moratorium Decreed by President Menocal—Views and Recommendations of the United States—Mr. Albert Rathbone Retained by the Cuban Government as Adviser in Negotiations for a Loan—Report by Mr. Rathbone to President Menocal

837.516/22: Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, October 10, 1920—9 p.m.

[Received October 11—1:23 a.m.]

Attention Norman Davis:

Banco International suspended payments Saturday morning during which heavy runs were made on Banco Nacional and Banco Español until regular closing hour. President Menocal is said to be disposed to lend Government assistance, and reported to have stated that this was opportunity for foreign banks to show their favorable sentiments toward Cuba by cooperating to stop panic. Heads foreign banks are still in session trying to decide what they might reasonably recommend to their home offices. Government will tonight or tomorrow decree fifty-day moratorium with several conditions. Depositors of \$2,000 may withdraw [10 or even 12 percent of] that amount. Further details tomorrow.

LONG

837.51/354

The Minister in Cuba (Long) to the Secretary of State

No. 449

HABANA, October 12, 1920.

[Received October 19.]

SIR: Referring to recent telegrams in regard to the Moratorium Decreed by the President on the 10th Instant, I have the honor to transmit, herewith, copies of the Extraordinary Edition (No. 43) of the *Official Gazette* of October 10, 1920, in which this decree (No. 1583) is published. A translation of the decree published in the *Havana Post* today is also enclosed herewith.

I have [etc.]

BOAZ W. LONG

[Enclosure—Translation ⁵⁶]

Executive Decree No. 1583, October 10, 1920, Establishing a Bank Moratorium

Whereas, important institutions of credit of the capital represented by their directors and managers have appealed to the Presi-

⁵⁶ File translation revised.

dent, setting forth the extraordinary and critical situation in which they find themselves with current account deposits amounting to more than four hundred million dollars and with assets represented by cash, bonds, stocks, securities, sugars, real estate and credits amounting to more than a thousand million dollars, even estimating sugar at its present value, the which demonstrates the solvency of these institutions and their financial capacity to satisfy their depositors;

Whereas, in these last days there has arisen a state of disquietude and alarm brought about by exaggerated ideas of the situation of the banks, manifestly based in great part, on the volume of business created in times of the country's prosperity and the tightness of foreign markets in the movement of money and the decline in the price of sugar;

Whereas, it is a well known fact that depositors and current account creditors have demanded their deposits, moved by exaggerated rumors, in the belief that their interests are in danger, thus creating a situation that can not be resisted by any institution of credit and that is sufficient reason in any country to cause banking operations temporarily to be suspended.

Whereas, notwithstanding the decline in the price of sugar it is a fact that nine-tenths of the crop disposed of at high prices, and the activity in exportation of all the products of the country, portend an era of considerable prosperity, the present difficulties being transitory and only fleeting without consequence to the vitality of the country, by reason whereof the affairs of the banks have been taken into consideration;

Whereas, a measure so exceptional relating to the progress of the public welfare is only justified when social interests of a superior order (as are the organization and functions of public and private credit in the Republic) are considered to be in danger, for a panic of this nature would entail a great business crisis, the very thing that will come to pass if the Government fail to take rapid and energetic measures to safeguard all interests;

Whereas, the prosperous state of our agriculture, of our industries and of our commerce, is a matter of common knowledge and is shown by the fact that Cuba appears first in the list of countries exporting to the United States, with the enormous figure of six hundred and forty five million pesos, and occupies third place in imports from the same great Republic, by reason whereof the measure which this Government proposes and accepts will not place in danger any legitimate interest;

Upon advice of the Council of Secretaries in extraordinary session,

I DECREE :

1. Bills of exchange, drafts, notes, domestic drafts, I.O.U.s, and other credit documents, whether due or to become due before the first of next December, will not be collectible until that date.

2. Credits secured by mortgages, pledges, or simple notarial document claims, due or to become due within the period mentioned in the preceding paragraph, will not be collectible and will be extended until the first of next December.

3. The auction proceedings provided for in judicial and administrative procedure are suspended and dates therefor may be fixed after the first of December next, and until after the said period neither auctions nor forced sales of any kind shall be held.

4. Within the said period, and beginning from the date of this decree, current account depositors of banks or banking institutions of the Republic may only demand payment of ten per cent of their deposits, and in respect of savings accounts of less than two thousand dollars, twelve per cent thereof, unless the commission constituted in paragraph six of the decretal part of this decree allows a greater per cent than that above mentioned, according to the state of the account.

5. This moratorium shall not affect obligations of the National Bank of Cuba as a fiscal agent and depository of the funds of the State, under contract, nor the current account of lottery revenues.

6. A commission composed of the Secretaries of the Interior, Finance, and Agriculture, Commerce and Labor will have charge of the inspection and examination of the banks for the purposes of execution of this decree, taking to this end all opportune steps, providing for the examination of their "carteras", the checking of the cash and the liquidation of assets.

7. Current account creditors may draw against their accounts the sums necessary for the payment of customs duties, taxes, fiscal dues, and other taxes of the State, of the province or of the municipality in favor of the respective customs officers, zone fiscal officers or other authorities concerned.

These checks will be collected by public officers within twenty-four hours after issuance thereof.

8. The Government reserves the right to revoke this privilege if the public interests should make it advisable to do so.

Signed in the President's Palace this 10th day of October, 1920.

M. G. MENOCAL,
President

E. SANCHEZ AGRAMONTE,
Secretary of Agriculture, Commerce and Labor

837.51/366a : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

[Extract]

WASHINGTON, November 22, 1920—7 p.m.

246. . . . In the present situation as it appears to this Department, there are two points that are the cause of the present confusion and unsettlement. First, the demoralization of the sugar market; second, the moratorium, which was brought about by the insolvency of some banks and consequent runs on the other banks. Unless these two underlying causes are effectively dealt with we can see no satisfactory outcome to the situation. It is imperative, if the sound banks are to avoid large losses, that the moratorium should be promptly ended. Under the moratorium, banks are not, we understand, able to obtain additional margin nor enforce security for existing debts. If long continued this is likely to lead to acts by unscrupulous debtors which will result in their ridding themselves of assets to which the banks are entitled to look for repayment on their loans. The suggestion that Congress authorize the issue of emergency currency certificates to be secured by real estate mortgages, sugar warehouse certificates, etc., will not in any way meet the situation but will make it worse. If such emergency certificates are made legal tender it will result in their going at once to a very substantial discount and they would be discriminated against and accepted only in cases where the recipient could not help himself. If they are not made legal tender, no one would accept them, except, perhaps, occasionally to meet a payroll or pay customs duties or other debts to the Government. Banks certainly would not accept them on deposit except on special deposit to be repayable in the same kind of currency. Such an issue, if receivable for customs duties and government debts, would at once cut off the Government's revenue and the extent to which they are paid out by the Government for wages or for amounts due by the Government would result in placing in the hands of government creditors a currency which they could not in turn pass on to their creditors. We fear greatly that such a condition, through the complaint of government employees and parties to whom the Government owes money, would lead to an immediate demand for other legislation making such currency legal tender and compelling its acceptance for all debts. This would be practical repudiation. What the banks need is something that their depositors will accept in payment of deposits because undoubtedly when the moratorium is lifted there will be at first at least a withdrawal of deposits. The proposed currency, far from meeting that requirement would, in our judgment, further

seriously undermine confidence and aggravate the situation. The proposal that such a currency should have a definite percentage of 25 or 30 percent in gold or deposits in New York would not in any way make the currency more acceptable, as it is not proposed that such currency shall be exchangeable at the government offices for gold or for drafts on New York. The whole plan seems to the Department not well thought out. It assumes the form but not the substance of currencies that have been made to work successfully under different conditions than those which now obtain in Cuba. Such a plan might work with a country whose foreign account was fairly well balanced and which proposed to redeem its currency in gold or in drafts on New York. Cuba's balance of payments is, the Department understands, now heavily against it, and it is not proposed that the currency shall be redeemable in gold or in drafts on New York.

So far as concerns the sugar market, the demand at present is very small at constantly lower prices, and the danger is that if this condition be permitted to continue the new crop sugars will be sold by needy planters at any price they can get. The strong planters who could finance their requirements would withhold their sugars from the market until the selling wave had passed and might then put sugar to unreasonably high prices with the result, as heretofore, of drawing Oriental sugars into the market. An embargo on the export of sugar, controlled through a government sales committee, although it might prevent the sale of sugar at low prices, would have no effect in stimulating the demand, as buyers would regard the situation as artificial; besides which, the holders of sugars and the banks which have loaned them money would get no relief such as would be afforded by an actual sale. Foreign buyers, the Department understands, have been unwilling to make purchases except through those channels which they know to be actually reliable, fearing if they dealt with others that the sugar would be delivered if the price declined, but that they could not enforce their contracts if the price rose. Reliable dealers, on the other hand, are unwilling to buy small lots of sugar on the chance of their being able afterward to re-sell them abroad. The present situation, therefore, is one where it has been impossible for buyers and sellers to meet, and this would not be corrected through a government sales committee which would not actually control the sugar in the sense of having it in its own hands ready to sell when a demand developed, or to make firm offers thereof, and which very probably would not have the confidence of foreign buyers. In short, what the Department fears is that the present plans, without helping the market for sugar, which is the great staple of Cuban industry and prosperity, would simply result in putting all Cuba on a paper money basis and under-

mining foreign confidence in Cuban business stability. This Government, it must be understood, is not endeavoring to maintain the price of sugar. It is for political and financial reasons important, however, for Cuba to reestablish some kind of market and avoid a situation which would prevent getting out the next crop of sugar, which the world needs.

You are instructed to call at once upon President Menocal and read to him the foregoing. You may, in your discretion, leave with him a paraphrase. Report results of your interview by cable.⁵⁶

DAVIS

837.51/418a

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, December 10, 1920.

MY DEAR MR. MINISTER: I am giving this letter to you to Mr. Albert Rathbone, who has been retained, as you know, by the Cuban Government as Adviser in connection with the negotiations for the proposed loan to be floated in this country. Mr. Rathbone has been asked by President Menocal to come to Havana to discuss with him the financial situation in Cuba, and I shall be glad if you will facilitate Mr. Rathbone's dealings with the members of the Cuban Government in every way possible. Mr. Rathbone may desire, during his stay in Havana, to communicate with the Department. If so, his messages may be sent by cable in the Departmental cipher, or in the official pouch as the urgency of the case may require.

Believe me [etc.]

NORMAN H. DAVIS

837.51/378: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

[Extract]

HABANA, December 10, 1920—7 p.m.

[Received 11:45 p.m.]

342. On December 8th, Dolz⁵⁷ submitted to Congress project of economic law, main features of which were extension of moratorium until end of April, authorizing and empowering President of Cuba to make loan of one hundred million and to dispose of sugars on hand: and through a commission to control sales of future crop, accepting bonds of foreign powers in payment. . . .

LONG

⁵⁶ Not printed.

⁵⁷ Ricardo Dolz, Conservative Leader in the Senate.

837.51/378: Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

[Extract]

WASHINGTON, December 14, 1920—7 p.m.

266. Your December 10, 7 p.m.

The Department desires you to notify Rathbone and to inform the President, if such action is in your opinion necessary, that the provisions of the bill referred to in your telegram are in the opinion of the Department objectionable and unsound, and if passed by the Cuban Congress would render the flotation in this country of the loan desired by the Cuban Government impossible.

DAVIS

837.51/393

The Minister in Cuba (Long) to the Acting Secretary of State

No. 631

HABANA, December 17, 1920.

[Received December 23.]

SIR: I have the honor to state that Mr. Albert Rathbone arrived last Monday, after which he interviewed the President of Cuba, and laid plans to investigate and report on the best solution for Cuba's present urgent economic needs.

On Monday afternoon he met the Bankers in a group and on Tuesday and Wednesday interviewed them separately. By Wednesday night several articles had appeared in the local papers and the atmosphere about the place was foreboding. The general impression was that the Cuban Congress would pass an unsatisfactory law which the President would sign. At no other time during my experience in Cuba have the impressions gained from circumstantial evidence been so strong as they were on last Wednesday just before the Department's telegram of December 14th, 7 P.M. had been deciphered.

Wednesday evening after dinner, I interviewed several men of extended experience in Cuba, and the impression was that the good offices of Mr. Albert Rathbone would come to nothing and that the Cuban Congress and the President of Cuba would take a step similar to that taken when the amendments to the electoral law were passed.

I therefore wrote to President Menocal early on the morning of December 16th, a letter which contained pertinent portions of the

Department's December 14th, 7 P.M. and took it to him in person. By the time he had gone over it carefully and made some effort to explain that evidently my Government did not understand the bill, Mr. Rathbone arrived. President Menocal requested that I remain during their interview. I did so, and one of the first things that came out in the conference was the statement by President Menocal that the Dolz law was based on the Majority plan recommended by the Bankers, as described in my urgent telegram No. 312 of November 21st, 11 A.M.⁵⁸

Mr. Rathbone was quick to state that the Bankers had explained to him the conditions under which all of them had hastily formulated the Majority plan, adding that he had just completed a series of interviews with them in which with unmistakable clearness it was asserted that with passing of time and in the light of more careful reflection, their views had been substantially modified.

The President observed that if the Bankers had modified their positions it did not show a very serious attitude unless they gave him some notice of it.

Mr. Rathbone and President Menocal discussed at some length the advisability of disposing of sugars on hand, and the difficulties surrounding Government control. The upshot of the conference was that the President requested Mr. Rathbone to reduce to writing his recommendations of what should now be done.

Immediately after the interview Mr. Rathbone and I had luncheon with Porfirio Franca and Cosme de la Torriente, the former being the General Manager of the National City Bank, the latter an Independent (formerly a Conservative) and now Chairman of the Foreign Relations Committee of the Senate.

It was evident that both of them were out of sympathy with the project of law as prepared by Mr. Dolz. Senator Torriente stated that he expected on Monday to see a special committee assigned to study and report upon a bill which would be calculated to relieve the present financial stress.

It is understood that the Bankers will now prepare a statement reflecting their views as modified since the formation of the Majority Plan, and indications are that it will be in consonance with sound economic principles.

Mr. Rathbone's recommendations are being typed in final form this afternoon.

I have [etc.]

Boaz W. Long

375454

⁵⁸ Not printed.

837.51/398

The Minister in Cuba (Long) to the Acting Secretary of State

No. 645

HABANA, December 21, 1920.

[Received December 28.]

SIR: I have the honor to report that on Monday December 20th, before Mr. Rathbone's third interview with President Menocal he received from the President of Cuba a letter of which the enclosed is a copy.⁶⁰

A few hours thereafter, upon taking leave of the Chief Executive he was informed that he would be advised at a later date should there be further need for his services. President Menocal stated that he did not expect to make public Mr. Rathbone's report but would be glad to have a copy placed at the disposal of the American Government.

I assume from what I have learned of the interview that the relations between President Menocal and Mr. Rathbone were cordial.

Realizing the unfortunate impression which might be produced in the minds of American bankers should Mr. Rathbone's connections with the solution of Cuba's present perplexing financial problem be severed, before a settlement had been reached, I feel inclined discreetly to indicate the advisability of his retention at least until the loan shall have been negotiated in New York.

Enclosed please find a clipping from the *Havana Post* of Saturday⁶⁰ relating to Mr. Rathbone's report, a copy of which is herewith enclosed.

I have [etc.]

BOAZ W. LONG

[Enclosure]

The Special Adviser to the Cuban Government (Rathbone) to President Menocal

HABANA, December 17, 1920.

SIR: Since my arrival in Cuba, I have availed myself of the facilities you have placed at my disposal to discuss the existing banking and economical situation with Cuban bankers, with representatives of associations of business men and with others. The information I have thus obtained and the views that have been expressed to me have been of great assistance. I have verbally explained to you the various considerations which have led me to make the recommendations hereinafter set forth. In an endeavor to submit this document to you at the earliest possible moment, I omit any extended discussion of the causes of the present conditions or the reasons for my

⁶⁰ Not printed.

recommendations. I should also add that while I assume full responsibility for these recommendations, they have largely grown out of my discussions with you and do not greatly differ from the views of many of those with whom I have discussed the situation.

I

Cuba is fundamentally sound. There is no reason why under wise administration its prosperity should not continue. The inflation of prices and of credits from which Cuba is suffering is a condition existing throughout the world. Natural laws must and will force a healthy deflation—the process is bound to prove unpleasant but any artificial interference with the operation of these laws will but aggravate and prolong the disease. The inevitable consequences of inflation cannot be escaped. The process of deflation in Cuba has been aggravated by the speculation in sugar here and elsewhere, by the inability of the banking institutions, or some of them, to immediately meet demands for cash made upon them by their depositors and other creditors, and by the congestion in the harbor of Havana grievously interfering with the rapid delivery of merchandise and the use or sale thereof in the ordinary course of business thus uselessly tying up large sums of money. The moratorium, while necessary to enable banks and merchants to put themselves in a position to meet demands that might be made upon them, has naturally had the effect of impairing confidence. Confidence must be restored, to accomplish this and to enable deflation to proceed in an orderly manner Government aid can properly be given. Private business losses must be borne by those who have incurred them, they cannot be assumed by the State. Those who are insolvent must suffer the consequences, there is no fairy wand which can change insolvency into riches. Prosperity is based upon working and saving, it is so in Cuba as well as in other countries.

II

Already steps have been taken to relieve the harbor congestion. When this work has been accomplished important progress will have been made toward the restoration of normal conditions.

III

The rumors that Cuba would issue or authorize the use of an emergency circulating medium have quite naturally given rise to feelings of apprehension throughout the community. The United States dollar in use is today the best of paper money—any other medium put into circulation must inevitably and immediately go to a discount

as compared with the United States dollar with a resultant increase in commodity prices. Those who have deposited American dollars with banks and bankers and those who have sold goods for American dollars should receive back their deposits or receive payment for their goods sold in the American dollar. An immediately [*sic*] declaration of the Cuban Government that it will not countenance any emergency currency measure would do much to relieve apprehension and to restore confidence.

IV

The President of Cuba should be authorized by proper legislation, for the purpose of relieving the banking and commercial situation, to contract a loan or loans not exceeding \$100,000,000 to issue bonds, (free of all Cuban taxes) in a principal amount not exceeding said sum, in one or more series with such rights and priorities, if any, as between different series as may be provided in said bonds, to sell and dispose of said bonds at such price and upon such terms and conditions as he may determine, to pledge all or any of said bonds as security for money borrowed or otherwise to use and dispose of said bonds or any of them for the aforesaid purposes with authority to pledge Government revenues as security for such bonds.

V

A sale of not less than \$50,000,000 of such bonds of the Cuban Government should be negotiated in the United States. Any part of said issue not so sold should remain available for use if ultimately found necessary, but only for the purposes mentioned.

VI

The arrangements made for such loan should include the constitution of a Commission of not more than four members and for its perpetuation during the life of the loan. The proceeds derived from such loan should be under the control of the Commission. The Commission should have authority

- (a) Under such conditions as it should impose to loan moneys to solvent banks and bankers against good collateral and repayable at such times and carrying such rates of interest as the Commission should determine.
- (b) To examine or to cause examination to be made into the financial condition of domestic operations, branches of foreign corporations or individuals carrying on the business of banking in Cuba.
- (c) To take possession of and exclusively to close and to liquidate in such manner and by such instrumentality as it should deem proper, any domestic corporation, the branch

of any foreign corporation and any individual carrying on the banking business in Cuba if, in the judgement of the Commission, insolvent or [if] the future conduct of its business in Cuba would be detrimental to the interests of the public.

The proceeds resulting from the sale of the Cuban Government Bonds in the United States should be administered as a revolving fund from which payments could be made for the amortization of said bonds and their payment of [on] maturity. The proceeds of such loan and the evidence of indebtedness received from advances to solvent banks with the security therefor and their proceeds should always be held as security for the loan. The use of any bonds not sold in America or the proceeds of any sale thereof, for the purpose of making advances to banks, should be in the exclusive control of said Commission.

VII

When the proceeds of the loan are available for use and when the examinations of banks has been concluded, a date should be set for the lifting of the moratorium. Any [in]solvent bank will then be in the charge of the Commission as liquidators and solvent banks, whose assets are in part not quickly convertible into cash will, through the aid of advances to be made as aforesaid by the Commission, be prepared to pay their deposits and obligations as an[d] when called upon to do so. The moratorium should be entirely lifted on a specified date and not gradually. To pass the necessary legislation to negotiate the sale of Cuban Government Bonds, to bring the proceeds to Cuba, and to examine the Banks will take some time. To enable the Plan to be put into operation, the moratorium should be extended thirty days with authority to the President to terminate it at any time in ten days previous notice.

VIII

It is important to the interests of Cuba that the remnant of the past sugar crop should be properly sold and the undue influence it is having in fixing prices on sugar markets through small transactions, be removed. The rights of anyone to carry sugar for any length of time by the use of his own money must be recognized but the resources of the banks available for the making and marketing of the coming crop, should not be used to continue to carry this remnant of unsold sugar. I understand that steps are now being taken by banks to obtain authority from their respective customers to sell this sugar. It can best be sold in one block to the only considerable purchaser now in the market. The Cuban Government should give every possible aid and encouragement to the efforts of the banks to place themselves

in a position where they can, by concurrent action, dispose en block of the unsold sugar of last years crop which they are now carrying. Concretely steps should be taken by the Cuban Government at once so that the moratorium shall no longer apply to loans made by banks, bankers or others secured in whole or in part by sugar of the past crop, unless full authority has been given to the lender to sell, in such manner at such price and at such time or times as he shall determine, the sugar of the past crop as pledged as security.

IX

The embargo on the export of American currency should be lifted. Money cannot be expected to come into a country when it cannot go out again. Every effort should be made to restore normal conditions at once. However it would prove impossible to float a Cuban Government loan in America unless this embargo was lifted.

X

If a loan is to be obtained in the United States, the sanction of the American Government must be had and there must be compliance with the provisions of the Cuban Constitution regarding revenues.

XI

An American loan could not be obtained unless it was understood that no embargo would be imposed on the export of sugar and no attempt to valorize it. Apart from this consideration, I should strongly advise against the Cuban Government in any way taking any control over the coming sugar crop. The war time controls are being done away with by the various nations of the world in their effort to return to normal conditions. The Cuban Government would be taking a distinct step backward by any resumption of control. It is only through private enterprise and initiative and private business that the natural correctives will be found for abnormal conditions. Government can only delay the application of such correctives as may be found necessary. Any control of sugar by the Cuban Government, whatever its purpose, will be regarded by the world at large as an attempt to fix artificially the price of sugar. During the war, the people have learned how to decrease their consumption with the minimum of discomfort. In these days of curtailed purchasing power,—if it is thought that the Cuban Government is taking steps to move up sugar prices—the consumer is most apt, in his own interest, to do what he did before for patriotic reasons, namely to reduce his consumption of sugar. Because a consumer has failed to eat sugar one month his normal consumption in subsequent months is not increased. Indeed, if habits are formed

for the purpose of decreasing consumption the normal demand may never return.

XII

I do not recommend that legislation be enacted for the formation of a clearing house. I recognize the many advantages that would accrue to the banks and to the public if a clearing house in Havana was voluntarily formed and wisely administrated. In my judgement, the advantages of such a voluntary clearing house would far exceed those of a clearing house imposed by legislation. I understand that steps are now in contemplation by the banks for the formation of a clearing house and I feel confident that the lesson taught by present conditions can be relied upon to bring about such a voluntary association at an early date.

XIII

If, as the result of the operation of the Plan suggested, any bank which had received savings deposits should be closed and liquidated by or under the direction of the Commission, it has been suggested that the Cuban Government should guarantee the ultimate payment in whole or in part of such savings accounts. Those with whom I have discussed this suggestion have expressed diametrically opposed views. As its determination depends largely upon considerations other than economic or financial, I make no recommendations in this respect. The amount of liability incurred by the State by reason of any such assumption cannot be even approximately determined in advance of an examination into the condition of the banks. It might run into a considerable sum. If it should be determined to assume any such responsibility then, as a part of the legislation assuming such liability, there should be enacted statutes adequately protecting this class of depositor so that in any future crisis the State will not be called upon to give a similar guaranty.

XIV

My recommendations are addressed to meet the present emergency situation which requires prompt action. I recommend, however, that the Cuban Government should enter into negotiations with the United States Government in regard to the framing of an adequate banking and currency system sufficiently elastic to meet the rapid advance in industry and business in Cuba and the increase in the volume of Cuban trade and business which can be expected in the near future.

Respectfully submitted,

ALBERT RATHBONE

CABLE CONCESSIONS TO THE COMMERCIAL CABLE COMPANY
OF CUBA, THE WESTERN UNION TELEGRAPH COMPANY, AND
THE ALL AMERICA CABLES, INCORPORATED

811.7337C73/1

*The Second Assistant Secretary of State (Adee) to the Minister in
Cuba (Long)*

No. 39

WASHINGTON, March 19, 1920.

SIR: The Commercial Cable Company of 253 Broadway, New York City, has made application to the Department for permission to land a submarine cable at Miami, Florida, which will connect with Havana, Cuba. In connection with its application for the landing at Miami, the Company has advised the Department that the Commercial Cable Company of Cuba, which is to be the owner of the Cuban terminus of the cable, is making application to the Cuban Government for permission to land the cable at Havana. A copy of the Commercial Cable Company's letter of February 21, 1920, regarding the application of the Commercial Cable Company of Cuba, and also a copy of a letter of March 15, 1920, stating the American nationality of the cable interests involved, are enclosed for your information and use in this connection.⁶²

You are instructed to support the application of the Commercial Cable Company of Cuba for permission to land the Havana terminus of the cable. You will note from the copy of the letter of February 21, 1920, that the Commercial Cable Company is instructing its Havana superintendent to confer with you regarding the matter.

I am [etc.]

ALVEY A. ADEE

811.7337C73/4

The Chargé in Cuba (White) to the Secretary of State

No. 166

HABANA, June 3, 1920.

[Received June 8.]

SIR: In further reply to the Department's instruction No. 39 of March 19, 1920 (file S.O. 811.73/170), directing the Legation to support the application of the Commercial Cable Company of Cuba for permission to land the Habana terminus of a cable from Miami, I have the honor to inform you that a presidential decree published in the *Official Gazette* of May 31st, 1920, granted the desired permission. The cable will land at the Calle Empedrado—the same place where the Company's present cable lands.

I have [etc.]

FRANCIS WHITE

⁶² Enclosures not printed.

837.73/2a : Telegram

The Secretary of State to the Chargé in Cuba (White)

WASHINGTON, June 3, 1920—1 p.m.

89. Thomas R. Strahan, of Root, Clark, Buckner and Howland, is at Hotel Sevilla to further interests of All America Cables. Please lend him all proper assistance.

COLBY

837.73/4

The Chargé in Cuba (White) to the Secretary of State

No. 202

HABANA, June 19, 1920.

[Received June 26.]

SIR: Supplementing my despatch No. 200 of the 18th instant,⁶⁸ I have the honor to report that I saw Colonel Hernandez, the Secretary of the Interior, this morning in regard to the projects of the All America Cables Company, Inc.

Colonel Hernandez received the matter very favorably and stated that he would push it at the earliest possible opportunity. Regarding the concession for a cable from Guantanamo Bay to Santiago de Cuba, he stated that it is just possible that the concession given to the French Cable Company by the Spanish Government for cables on the south coast of Cuba may contain stipulations which would prevent the granting of such concession to the All American Cable Company. He added, however, that his recollection is that there is no such prohibitory clause in the concession, and promised to look into it as soon as he is able to go to his office. He has been ill for some days and is still confined to bed.

Even should it be impossible to grant a concession for a cable to Santiago de Cuba, Colonel Hernandez said it would be possible to allow the Company to install a land line from Guantanamo Bay or Antilla, as the Company might choose.

Colonel Hernandez spoke of his being anxious for the laying of a cable along the north coast of Cuba as there is none there now and the right to do so has not been given to the French Company. For strategic purposes he considered it most advantageous, and from a commercial point of view it is essential to have this independent means of communication as the cities on the north coast, he expects, will grow very rapidly in size and importance, especially Nuevitas and perhaps Antilla.

The Cuba Cane Sugar Corporation, I understand, is building large wharves at Nuevitas Bay near Puerto Tarafa, and this will soon

⁶⁸ Not printed.

become the largest sugar exportation port on the Island. Incidentally its development should tend to relieve somewhat the present congestion in Habana.

Colonel Hernandez was also favorable to the granting of a concession for a cable from New York to Habana and from Habana to South America via Mexico or Central America.

Mr. Strahan, I believe, will present the petition for these concessions within the next few days, and I feel confident there will be no difficulty in their being granted. The only possible delay may arise through the illness of the Secretary of the Interior and the absence of the President, who, I understand, is contemplating leaving Habana tonight on his yacht for a visit to the eastern end of the Island.

I have [etc.]

FRANCIS WHITE

837.73/4a: Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

WASHINGTON, July 8, 1920—4 p.m.

106. The Department is informed that the President of Cuba has recently authorized the Secretary of the Interior to grant a concession to the Western Union Telegraph Company to lay a cable from Cojimar to the island of Barbados. You are instructed to telegraph as soon as possible the date of the Executive Decree containing this authorization and to inform Department whether concession to the Company has actually been granted.

DAVIS

837.73/6

The Chargé in Cuba (White) to the Secretary of State

No. 253

HABANA, July 10, 1920.

[Received July 13.]

SIR: Referring to the Department's cable instruction No. 106 of July 8, 4 p.m., I have the honor to confirm my telegram of today⁶⁴ stating that a concession was granted by the Cuban Government to the Western Union Telegraph Company to land at Cojimar, or some other place in Cuba to be determined by mutual agreement, a direct cable from Barbados. The Legation understands that the Western Union Telegraph Company has a working agreement with a British cable company holding a monopoly concession in Brazil, and that this concession was sought in order to link up its system with that of the British company.

⁶⁴ Not printed.

A copy of the concession is enclosed herewith. The Legation regrets that there is not time to have it translated before the pouch closes this evening.

I have [etc.]

FRANCIS WHITE

[Enclosure—Translation ⁶⁵]

Executive Decree Granting a Cable Concession to the Western Union Telegraph Company ⁶⁶

On the petition filed by Mr. J. C. Willever, Vice President of the Western Union Telegraph Company, applying for permission to land at Cojimar or any other place to be selected jointly with the office of the Director General of Communications, the end of a cable that will communicate directly with the island of Barbados;

On the advice of the Office of the Director General of Communications and the recommendation of the Secretary of the Interior;

BE IT RESOLVED :

1. To grant the Western Union Telegraph Company permission to land at Cojimar or any other place to be designated by the company jointly with the Cuban Government the end of a submarine cable whose other end will be in the island of Barbados.

[Articles 2, 3, 4, 5, 6, 7, and 8 are the same, *mutatis mutandis*, as the corresponding articles of the concession granted the All America Cables, Incorporated, Decree No. 1197, printed on page 63.]

9. The permit granted by this decree to operate and maintain a cable service between Cuba and the island of Barbados will take effect from the date of publication of this decree in the *Gaceta Oficial*.

M. G. MENOCAL

President

CHARLES HERNANDEZ

Secretary of the Interior

837.73/8

The Chargé in Cuba (White) to the Secretary of State

No. 333

HABANA, August 13, 1920.

[Received August 18.]

SIR: Referring to my despatches (Nos. 200 and 202) of June 18th ⁶⁷ and June 19th respectively, in regard to the concessions asked for by the All America Cables Company, Incorporated, I have the honor to enclose, herewith, copies of the *Official Gazette* of the 2nd

⁶⁵ Supplied by the editor.

⁶⁶ Published in the *Gaceta Oficial*, June 3, 1920.

⁶⁷ Not printed.

instant in which were published presidential decrees Nos. 1197, 1200, 1201 and 1202, granting the four concessions requested by Mr. Strahan on behalf of the above mentioned company.

The first two concessions are for cables from Habana to Mexico or some point in Central America to be determined by the Company, and to connect from there with the Company's cables to the west coast of South America, and from Habana to New York.

These concessions follow rather closely those granted by the Cuban Government to the Western Union Telegraph Company and to the Commercial Cable Company, with one important exception, namely:—that Article 9 of both concessions stipulates that work should be begun, totally or partially, within a period of five years. Mr. Strahan was afraid that if a new Government should come into power after the next elections it might abrogate the concessions granted by the present Government especially if the work had not been begun on them, and, as explained in my despatch first above mentioned, work cannot be begun for a minimum of three years due to the shortage and difficulty of procuring cable making material. Mr. Strahan thought that by putting in a time limit under which the work should be commenced it would act as an offset to the abrogation of the concession for at least the period stipulated in Article 9 of these concessions.

The last two concessions are for cables from Santiago de Cuba to Guantanamo Bay, and from Guantanamo to Habana, with the privilege of establishing connections or sub-stations in any or all of the following places:—Baracoa; Nipe or Antilla; Gibara; Nuevitas or Tarafa; Puerto Padre; San Fernando or Moron; Caibarien; Sagua La Grande or Isabela; Cardenas and Matanzas.

There was some difficulty at first for the Government and Mr. Strahan to come to an agreement in regard to the terms of these last two concessions. The Government wished to stipulate that the rates would have to be at least three times as great as those in force on the Government-owned land-lines. The Director General of Communications was afraid that there would be competition with resulting loss in the income from the land-lines and hence wished to charge prohibitive rates. Mr. Strahan told me that this tariff would be of such a prohibitive nature as to cause his Company to throw over the concession; he pointed out that it would be several years at best before this line could be made to pay. The Government also wished to prevent the Habana and New York cable from transmitting any messages from other points in Cuba other than Habana, which would mean that messages from Caibarien, for instance, could not be forwarded to New York by the All America Cables but would have to be turned over to one of their competitors. I pointed out to the Secretary of the Interior the injustice of these demands and also

called to his attention, the advantage, for the Cuban Government, to have an independent means of communication with the eastern end of the Island and intermediate points, if communication by the land-lines should, through political disturbances or other causes, be interrupted; also the advantage to the cities on the north coast, from the point of view of their commercial development, to have direct cable connection with New York and Central and South America. Colonel Hernandez agreed finally that the Government would ask the Company to charge no higher rates than those charged by the Government owned land-lines, and this stipulation was embodied in Articles 9 and 10 respectively of the last two concessions.

Mr. Strahan appears to have left Habana immediately after the concession was granted and the Legation, therefore, has no further information in regard to his Company's plans other than what he gave me soon after his arrival in Habana to the effect that his Company is ready to lay immediately the cable from Guantanamo Bay to Santiago de Cuba; and that it will immediately place orders for the other cables which will be laid as soon as these are made, probably within the next three to five years.

I have [etc.]

FRANCIS WHITE

[Enclosure—Translation ⁶⁵]

Executive Decrees of July 20, 1920, Granting Cable Concessions to the All America Cables, Incorporated ⁶⁶

DECREE NO. 1197

On the petition filed by Mr. Thomas R. Strahan, in the name and as representative of All America Cables, Incorporated, in which a permit is requested to lay one submarine cable or more between Habana and Cojimar or any other point in the vicinity designated by the company, the said cables to establish communication between Cuba and Mexico, or some other point on the Caribbean coast of Central America, in order to connect later with Panama and South America;

On hearing the opinion of the Director General of Communications and on the recommendation of the Secretary of the Interior;

BE IT RESOLVED:

1. To grant to All America Cables, Incorporated, a permit to land one or more submarine cables between Habana and Cojimar or any other point in the vicinity designated by the company, the said cables to establish communication between Cuba and Mexico or

⁶⁵ Supplied by the editor.

⁶⁶ Published in the *Gaceta Oficial*, Aug. 2, 1920.

some other point on the Caribbean coast of Central America in order to connect later with Panama and South America, and to establish, subject to the inspection of the proper officials of the Cuban Government, lines of communication between the landing sites made on the Cuban coasts and the offices of the company wherever located in the city of Habana.

2. The permit is granted for an indefinite time without prejudice to the rights of third parties and shall not be understood to grant any monopoly whatsoever to the All America Cables, Incorporated.

3. The Government of Cuba reserves to itself the right to suspend this permit or to take possession of the plant at and for any time it may deem proper for the protection of the public interest. In such an event the Government will at its own discretion set the amount of the compensation or indemnity, if any be allowed, to be paid to the All America Cables, Incorporated.

4. The All America Cables, Incorporated, will at all times abide by the laws, regulations and orders now or hereafter in existence with regard to telegraph, telephone, and wireless communications, or any other system that may hereafter be operated within the Republic insofar as they are applicable.

5. The Government may at any time issue in connection with this permit such rules and regulations as it may deem of service to the public interest.

6. The grantee Company may ask to cause, for all legal purposes, a certain part of the work it is about to perform to be declared a public utility, the Government reserving to itself the right to grant or withhold, at its own discretion, the declarations in each and every case.

7. The spot of the landing of the cable will be determined, and the other works in the territorial waters and on the coast of Cuba will be conducted, in accord with and under the supervision of the competent authorities of the Cuban Government.

8. All connection or consolidations with the land lines shall upon an official permit previously granted be effected by officials of the Cuban Government.

9. The operations to which this permit refers must begin in whole or in part within five years starting from the date when the All America Cables, Incorporated, obtains permission from the Republic of Mexico or some other country of Central America that the All America Cables, Incorporated, chooses for landing the terminal or terminals of the aforesaid cables, and are to be completed within three years from the date of commencement, barring *force majeure*, or accident.

10. The permit granted by this decree to operate and maintain a cable service between Cuba and Mexico or some other point on the

Caribbean coast of Central America will take effect from the date of the publication of this decree in the *Gaceta Oficial*.

Given at Habana, Palace of the Presidency, July 20, 1920.

M. G. MENOCAL

President

CHARLES HERNANDEZ

Secretary of the Interior

DECREE NO. 1200

[The terms of this decree are the same as those of no. 1197, except that the cables were to be laid "between Habana and Cojimar or some other point in the vicinity designated by the company, with the consent of the Government of the Republic, and the City of New York or some other point in the United States of America."]

DECREE NO. 1201

[The terms of this decree through article 8 are the same as those of no. 1197, except that the cables were to be laid "between Santiago de Cuba, or any other point in the vicinity designated by the company, and some point in Guantanamo Bay."]

9. The tariffs put into effect by the company for the service authorized by this decree shall in no case be less than those existing for the Government telegraph service between the same points. In addition the company will grant to the Government half rates for official cablegrams.

10. The permit hereby granted by this decree will go into effect upon the date of its publication in the *Gaceta Oficial*.

Given at Habana, Palace of the Presidency, July 20, 1920.

M. G. MENOCAL

President

CHARLES HERNANDEZ

Secretary of the Interior

DECREE NO. 1202

[The terms of this decree through article 8 are the same as those of no. 1197, except that the cables were to be laid "between Habana and Cojimar or some other point in the vicinity designated by the company, with the consent of the Cuban Government, said cables to have their other terminus at Guantanamo Bay."]

9. The operations to which this permit refers must begin in whole or in part within five years from the date of this concession, and

are to be completed within three years from the date of commencement, barring *force majeure*.

[Article 10 corresponds to article 9 of no. 1201.]

[Article 11 corresponds to article 10 of no. 1201.]

Given at Habana, Palace of the Presidency, July 20, 1920.

M. G. MENOCAL

President

CHARLES HERNANDEZ,

Secretary of the Interior

811.7337C73/12

*The President of the Commercial Cable Company (Mackay) to the
Second Assistant Secretary of State (Adee)*

NEW YORK, October 14, 1920.

[Received October 14.]

SIR: Replying to your letter of October 12th.,⁷⁰ I have pleasure in enclosing herewith, for your information, copy of a translation of Decree No. 857, dated May 27th, 1920, published in the *Official Gazette* of the Republic of Cuba, containing the conditions under which this Company has been allowed to lay its cable from Miami to Havana.

Yours respectfully,

CLARENCE H. MACKAY

[Enclosure—Translation ⁷¹]

*Executive Decree No. 857, May 27, 1920, Granting a Cable Concession to the Commercial Cable Company*⁷²

On the petition filed by the Superintendent of the Commercial Cable Company of Cuba, applying for permission to land at its present site the terminal of another submarine cable which is to place this Capital in communication with the City of Miami, Florida, U.S.A.;

On the advice of the Director General of Communications and on the recommendation of the Secretary of the Interior;

BE IT RESOLVED:

ART. 1. To grant to the Commercial Cable Company of Cuba permission to land in agreement with the Government of Cuba and at the site they now have, the terminal of another submarine cable which will have its other terminal at the city of Miami.

⁷⁰ Not printed.

⁷¹ Supplied by the editor.

⁷² Published in the *Gaceta Oficial*, May 31, 1920.

[Articles 2, 3, 4, 5, 6, 7, and 8 are the same, *mutatis mutandis*, as the corresponding articles of the concession granted the All America Cables, Incorporated, Decree No. 1197, printed on page 63.]

ART. 9. The permission granted in this decree to operate and maintain a cable service between Cuba and the city of Miami shall become operative from and after the date of the publication of this decree in the *Gaceta Oficial*.

M. G. MENOCAL
President

CHARLES HERNANDEZ
Secretary of the Interior

837.73/6 : Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, November 11, 1920—4 p.m.

232. Your despatch 253, July 10th, in regard to the permit for a cable landing granted the Western Union Telegraph Company by the Cuban Government.

You will inquire carefully and make a full investigation relative to the cable situation in question. If any kind of cable has been laid under the provisions of the permit, or if there have been any steps taken, or if any are under consideration, you will reply by telegram and will keep the Department informed of any developments.

The application for a cable landing at Miami for the Barbados-Brazil cable has been withdrawn by the Western Union Company. It is believed that an attempt may be made by the Western Union to make a cable connection with Cuba at some point near Miami beyond the territorial waters of the United States, and to use the existing cables from Cuba to Key West for the transmission of messages.⁷³ You will make a careful investigation immediately.

COLBY

837.73/14 : Telegram

The Minister in Cuba (Long) to the Secretary of State

[Paraphrase]

HABANA, November 13, 1920—1 p.m.

[Received (?) : 24 p.m.]

298. The Western Union Company has laid no cable under the permit granted by the Cuban Government, but is making preparations

⁷³ See pp. 686 ff.

to do so. No cable connection has been made from any place near Miami with Habana. I am making further investigations.

LONG

837.73/21: Telegram

The Minister in Cuba (Long) to the Secretary of State

[Paraphrase]

HABANA, November 29, 1920—3 p.m.

[Received November 30—12:55 a.m.]

326. Department's telegram no. 232. The representative of the All America Cables Company, Mr. Strahan, has arrived in Habana. In regard to the permit granted the Western Union Company to land its Barbados cable in Cuba, it is Mr. Strahan's impression that this Legation was to be instructed to ask that this permission be suspended by the Cuban Government until its international aspect should have been considered, as preliminary, possibly, to a request for the revocation of the permit. I respectfully suggest that instructions be sent me.

According to advices just received the cable ship, *Robert R. Clowery*, has sailed for Key West from Habana.

LONG

837.73/21: Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, December 2, 1920—noon.

254. Your November 29, 3 p.m. Ask the Cuban Government informally if the Western Union Telegraph Company has been granted the privilege of connecting at Habana the cables now in operation between the coast of Florida and Cuba with the cable it is proposed to construct between Barbados and Habana. At the same time you may suggest that the Government of Cuba might be interested to see the landing permits that the said Company now holds for its cable connection between Florida and Cuba.

After making this friendly and informal inquiry you will say that it is made because various reports have come to this Government that the Barbados-Miami cable was to be laid from some place off the coast of Florida, beyond the three-mile limit, to Habana, as no permit has yet been granted for the landing of the cable on United States territory.

COLBY

837.73/23: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

[Paraphrase]

HABANA, December 14, 1920—11 a.m.

[Received 8:44 p.m.]

346. Dr. de Bustamante⁷⁴ informs me that President Menocal is greatly interested in the matter of the Western Union Telegraph Company, and he believes that if the Government of the United States should request the suspension of the concession President Menocal would act immediately.

LONG

837.73/24: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

[Paraphrase]

HABANA, December 14, 1920—1 p.m.

[Received 8:46 p.m.]

347. Department's telegram no. 254. I am told by Dr. Patterson that he has been informed by the Secretary of the Interior that without the Habana-Florida cable the Western Union Company could not connect its cable between Habana and Barbados according to the terms of the permits it possesses at present. It was the opinion of the Secretary of the Interior, however, that it would not be possible to prevent the Western Union from relaying communications through its office in Habana.

LONG

837.73/27: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

[Paraphrase]

HABANA, December 24, 1920—8 p.m.

[Received December 25—5:35 p.m.]

360. This Legation is informed that suspension of the Western Union Telegraph Company's permit to land at Cojimar was ordered by President Menocal to-day.

LONG

⁷⁴Attorney in Habana for the All America Cables, Incorporated.

837.73/23: Telegram

The Minister in Cuba (Long) to the Acting Secretary of State

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LONG

⁷⁴Attorney in Habana for the All America Cables, Incorporated.

RICE IMPORTATIONS

Refusal by Cuban Importers to Accept American Shipments of Rice at Purchase Prices; Representations to the Cuban Government—President Menocal's Decree of September 6, 1920, Restricting and Regulating Importations; Dissatisfaction of the United States—President Menocal's New Decree, November 19, 1920

637.116/92a: Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

WASHINGTON, June 26, 1920—2 p.m.

97. Department is informed that merchants in all parts of Cuba are refusing to accept shipments of rice bought by them from American exporters.⁷⁷ Situation at Cienfuegos especially acute. This has created an extremely serious situation since American exporters state that they have approximately \$30,000,000 worth of rice at Cuban ports or *en route*. Please call attention of Cuban Government to gravity of this situation and to serious injury to commercial relations between the two countries if this situation continues, and urge on the Government the desirability of bringing to bear any influence within its power to obtain fair treatment for American interests.

DAVIS

637.116/98

The Chargé in Cuba (Williamson) to the Secretary of State

No. 232

HABANA, June 28, 1920.

[Received July 7.]

SIR: In compliance with the Department's telegraphic instruction No. 97, dated June 26, 2 p.m., concerning the serious rice situation in Cuba, I have the honor to report that today I took up the matter fully with Doctor Montoro, Secretary to the President. He stated that he was aware of the situation and of the fact that in many cases Cuban importers, on account of the grievous loss occasioned to them by the sudden fall in the market for that commodity, were trying to evade their obligations on one technicality or another. He said that the importers had come to the Government several times with requests to aid them in their predicament. First they had asked that the Government fix an arbitrary price arrived at purely on the consideration of the figure at which their contracts had been made, a procedure which, of course, the President could not countenance.

⁷⁷ Letter of June 11, 1920, from Julius Kahn, Chairman of the Committee on Military Affairs, House of Representatives, enclosing telegram from Rice Association of California (file no. 637.116/87).

They then asked that the ex-German vessels be used to distribute the rice so that the price could better be maintained. This also was refused.

Doctor Montoro assured me that he would "keep his eye on the courts" in order that justice might be sure of enforcement.

Inquiry has elicited the statement that Cuba has sufficient rice to meet her demands for a period variously estimated at from one to three years. The loss to the importers in the price, not to speak of the loss occasioned by weevils and the dampness which the long storage will render inevitable, leads me to respectfully suggest that in fairness to Cuban merchants, who in many cases it is alleged have taken the rice on the advice of American exporters who represented the purchases as a good investment, as well as in protection of exporters in the United States, all rice shipments be at once cancelled, and the grain either kept at home or diverted elsewhere.

I have [etc.]

HAROLD L. WILLIAMSON

637.116/100: Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

WASHINGTON, July 12, 1920—6 p.m.

109. Department's telegram No. 97, June 26, 2 P.M. Your despatches 232, June 28, and 246, July 2.⁷⁸

Rice Association of California claims that collective repudiation by Cuban merchants of rice contracts amounts to legal conspiracy. In reply to accusation that American dealers disregarded Cuban interests during the war, Rice Association asserts that its members lived up to all their contracts even though prices greatly increased before delivery due to abnormal conditions then existing. They contend that technicalities upon which present refusal of acceptance of shipments is based are mere subterfuge and that terms and conditions of rice shipments now refused are the same as Cuban merchants have constantly accepted in previous seasons.

You are instructed to take up matter afresh with Cuban Government and emphasize its seriousness to trade between the United States and Cuba. Considering the urgent nature of this case the United States Government will regard with pleasure any steps taken or suggestions made by the Cuban Government with a view of adjusting speedily the matter upon the basis of fair treatment of the interests involved.

DAVIS

⁷⁸ Latter not printed.

687.116/128: Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, August 2, 1920—noon.

[Received 10:10 p.m.]

171. At meeting on 29th, rice exporters and importers came to agreement to ask Government to license importation of rice for six months. Permits would only be given to those able to show they have warehouses immediately available for storage of rice on arrival and recourse is not had to banks for financing shipment. This would be tantamount to prohibition of importation. Local dealers would be able to meet drafts and there would be little if any loss to either American exporters or Cuban importers and Americans claim price will be lowered to Cuban people.

This project was submitted to Secretary of Commerce and Labor on Saturday. I saw him today and he is not for it on the ground that it will create a monopoly in favor of those who now have rice here, that it will keep the price of rice higher for the consumer than if the matter were thrown out and that closing Cuba to rice importations will affect Cuba's foreign relations with Great Britain, France, Japan and other rice exporting countries.

I told him that even if information circulating [*circulated?*] by rice exporters that price would be lowered by licensing importers were incorrect it would appear better to keep the price of rice temporarily at present level and save Cuba's credit as prices would doubtless rise in the future through less favorable banking facilities should Cuba's credit be impaired, that apparently the present project would preserve Cuba's credit, would cause a loss to no one and would, according to my information, lower prices to the Cuban consumer. As to affecting Cuba's formulations [*foreign relations*] I pointed out that Great Britain and France and Japan had apparently not consulted Cuba when they put an embargo on exports of rice from their territory and then suddenly opened the matter which was the cause of all the present trouble.

I understand that rice growers in Louisiana and other Southern States have regularly shipped their rice to Cuba and a prohibition of importation now might seriously affect their interests. Before pressing the matters with the President I beg to request the Department's instructions as to whether it is in favor of asking the Cuban Government to prohibit the importation of rice under the conditions above mentioned. As the matter is urgent I have the honor to ask an early reply.

WHITE

637.116/127: Telegram

The Secretary of State to the Chargé in Cuba (White)

WASHINGTON, August 7, 1920—7 p.m.

131. Your August 6, 11 A.M.,⁷⁹ re rice situation.

The Department does not feel that fixing an average price based on the present market price would afford any adequate protection to American interests. You are authorized therefore to impress on President Menocal the urgent necessity that any solution which is reached should protect the interests of the American exporters who have tied up immense sums of money, relying on the good faith and honesty of their Cuban customers. The solution advocated by the American interests and Cuban merchants, as outlined in your August 2, noon, No. 171, would appear adequately to protect all interests involved and no reason is seen why the Cuban consumer should suffer if wholesale and retail prices are regulated by the Cuban Government. You are authorized therefore to state to President Menocal that this solution is favored by the United States unless some other definite adequate plan is proposed.

COLBY

637.116/135: Telegram

The Secretary of State to the Chargé in Cuba (White)

WASHINGTON, August 28, 1920—6 p.m.

147. The Department is very much dissatisfied at the failure to make progress in reaching a solution of the rice situation. It appears that the President of Cuba has not fulfilled the promises which he made and that the Secretary of Agriculture, while negotiating apparently sympathetically with the representatives of the Rice Association, has never presented the results of these negotiations to the President, but after apparently reaching an understanding, devised methods of delay and submits constantly changing plans, so that nothing is accomplished. The rice exporters are convinced that the Cuban Government intends to trifle with the negotiations until the time has passed when anything can be done, thus defeating a solution and leading the Cuban merchants to feel that they have the tacit encouragement of the Government in disregarding their obligations. This Government cannot but feel that further delay would amount to a refusal to settle the question, thus causing a very serious financial injury to American interests.

⁷⁹ Not printed.

Please impress on the Cuban Government the urgent need for some definite action in this matter and report immediately by telegraph the exact present status of the negotiations.

COLBY

637.116/168: Telegram

The Chargé in Cuba (White) to the Secretary of State

HABANA, August 30, 1920—10 a.m.

[Received 9:35 p.m.]

195. Your August 28, 6 p.m. As reported in my despatch number 362 of August 27th,⁸⁰ agreement was supposedly reached with Secretary of Agriculture regarding rice on 17th instant. He was to present decree to the President for signature on following day. He did not do so but on 20th instant promised me to do so on the next day. The President was at his countryseat and decree with accompanying report raising objections was [not] presented to President until August 25th. He had not seen his secretary since 20th and did not know what the objections were but promised to study matter immediately. After I left he received the papers and on following day Dr. Montoro informed me President did not agree with Agramonte's objections and had decided to sign decree but that first he would tell Agramonte so and had already summoned him to his countryseat for the next day, 27th instant, after which decree would be signed. On 28th I inquired Dr. Montoro whether decree was signed and was told Agramonte still objected and President had ordered Montoro, Agramonte and Rice Association's lawyer to meet on Monday to finally settle matter. Upon receipt of yours of August 28, 6 p.m. yesterday afternoon I immediately called on Dr. Montoro and again urged upon him the imperative necessity of immediately settling the matter. He stated that the only matter left unsettled is the personnel of the licensing committee as Zaldo refused to serve and promised the whole matter would be definitely settled at meeting at four o'clock this afternoon and decree signed tomorrow morning. I told Dr. Montoro that if matter is not definitely settled this afternoon I wish to see the President Tuesday morning and he promised to arrange it. Sub-Secretary of State this morning promised use his influence to have matter definitely settled this afternoon.

WHITE

⁸⁰ Not printed.

637.116/142

The Minister in Cuba (Long) to the Secretary of State

[Extract]

No. 393

HABANA, September 9, 1920.

[Received September 14.]

Sir:

As reported in previous despatches of the Legation, the President categorically promised to put into effect the decree which was agreed upon on August 17th. General Agramonte was not in favor of this, and threatened to resign if it were effected. The President, nevertheless, stated his determination to publish the decree as agreed upon even if it should result in General Agramonte's resignation.

Doctor Montoro wished to save General Agramonte, and proposed that the matter should be settled by means of an inter-departmental order which would not be published in the official gazette, and in a quieter way would bring about the same result as the decree, but would spare General Agramonte from any implication of having received a bribe offered to him as reported in the Legation's despatch No. 362 of August 27th.⁸¹

The order was published yesterday and was not in the form of an inter-departmental order to spare General Agramonte's feelings as originally stated, but as a proclamation, and the sense of it has been very materially changed. A copy of it taken from *El Mundo* of the 8th instant, and the English translation of it published in the *Havana Post* of the same date, are enclosed herewith.

It will be noticed that the wording of this proclamation differs considerably from the original text transmitted to the Department in the Legation's despatch No. 312 of August 3rd.⁸¹ Articles 2, 3, 5 and 6, are materially different as they throw the entire burden of clearing the docks on the American Rice Exporters.

The American rice exporters cannot assume the responsibility of clearing this rice off the docks, as they would thereby admit the validity of the Cuban consignees refused [*refusal*] to accept it. And by Article 6, if the rice is not removed from the docks within the time specified, the decree will be cancelled.

In view of these divergencies there would appear to be no alternative except to insist with the President that he publish the original decree, even though it might cause the resignation of General Agra-

⁸¹ Not printed.

monte. The present substitute appears to have been drawn up by the Secretary of the Treasury, Doctor Cancio, with a view to render nugatory the original decree the stipulations of which are circumvented.

The first article also stipulates that the decree will be in effect only until January 1st. This is not sufficient time to induce the Cuban consignees to accept the merchandise sent to them, and they have thus far shown no more readiness to meet their obligations than they showed three months ago. Doctor Montoro stated on September 4th, that the time limit of the decree could not be made longer because the authorization under which it is issued is based on certain war powers given to the President, and that these expire six months after the exchange of ratifications of the Peace Treaty. He explained that this time limit did not extend beyond January 1st.

Mr. White pointed out to him that the exchange of ratifications was effected with Germany on March 8th, and, therefore, if it were based only on that the time would expire in four days; but that the President had informed him that he was calculating from the exchange of ratifications of the Austrian treaty, and that although this treaty has been signed and ratified by Cuba and the copies sent to Paris, the exchange of ratifications, nevertheless, has not yet taken place, and that there is still a six months period in which the decree can run. Doctor Montoro then promised to change this date when the order should be issued. When the proclamation was issued the old date was left in. Doctor Montoro then stated that this was done on account of the adverse comments which would be made by the sugar interests, as rice is the staple article of food of the laborers and the *zafra* is about to begin.

Doctor Montoro promised that the decree would be prolonged for the requisite time. Mr. White pointed out to him that it would be much better to have it done once for all rather than to make two decrees of it. Mr. White added that the proclamation was very unsatisfactory and the Legation would be obliged to protest against it as soon as the full report on it should be received from the attorney of the American rice exporters.

This matter will be taken up with the President, and a demand be made that some practical solution be given immediately.

I have [etc.]

BOAZ W. LONG

[Enclosure—Translation]

*Executive Decree of September 6, 1920, Regulating Importations of Rice*⁸³

Whereas, the Secretary of State has informed this presidency of his desire that a formula be found that would quickly and satisfac-

⁸³ Published in the *Habana Post*, Sept. 8, 1920.

torily bring a settlement of the conflict over the rice imported into Cuba, by virtue of sales made by American exporters to local merchants and others throughout the territory of the island, and on which conflict the government of the United States has already acted through its diplomatic representation in this island: and,

Whereas, the Cuban minister to Washington, in a cable dated August 24, confirmed by letter of August 26, which cable and letter were turned over to the Department of Agriculture, Commerce and Labor, informed the Department of State that he had expressly been called by the State Department of the United States of America to discuss the rice question, and had been informed of the desire of that Government to see a quick and satisfactory settlement reached between the merchants interested: and that measures be adopted by the Cuban Government that would settle the controversy, which could by no means be neglected; and further urged that a prompt answer be given, as said Government thought it necessary to insist that measures should be taken to secure the desired settlement agreed upon, or that another be suggested that would protect the interests of the American exporters involved in the affair; and,

Whereas, the cable of August 24 from the Cuban minister at Washington stated that the American Department of State had informed him in the interview that it did not want to impose an unreasonable price on the Cuban consumer, but that owing to the special circumstances of the case, a settlement of the affair was urged, and that measures be taken by the Cuban government to that effect; and,

Whereas, in a document approved by Dr. Lavedan, consulting attorney for the American rice interests, it stated that there is a rice stock at different ports of the island, and especially Havana, that far exceeds the current needs of the population, and that could not be consumed in any less than eight months, the stock being over one million bags, and one of the causes of the harbor and waterfront congestion;

Therefore, it is advisable to state that the Cuban government has had no part in bringing about the situation, which is owing to the fact that unsettled market conditions caused by the European war, and the appearance of the first peace crops brought about an excess of speculation between local importers and exporters at different markets that has created such conflicts as that of rice in other branches of the trade; and,

Whereas, the economical objections pointed out against this resolution by the Secretary of Agriculture, Commerce and Labor do not meet the circumstances of the unsettled market conditions that we are still suffering from on account of the European war:

Therefore, by virtue of the above considerations, it is incumbent on the President of the Republic to act in order to bring a settlement of the controversy; and, acting under the authority granted me by Article 2 of the Subsistence Law,

I RESOLVE

First: That from this day our Consuls and Consular Agents will not vise documents in connection with rice shipments to Cuba unless so authorized by cable from the Cuban government, until January 1, 1921.

Second: Record of rice consignments imported into Cuba to date will be kept at the Department of Agriculture, Commerce and Labor, so as to avoid profiteering in a food article extensively consumed in Cuba, and that all such rice consignments at present in stock at docks and bonded warehouses of Havana, and ports throughout the island, shall be removed by importers without any delay, once all due custom obligations have been complied with.

Third: That at said warehouses and others that may be bonded under the responsibility of customs collectors, there shall always be sufficient space to receive and store from 150,000 to 200,000 bags of rice upon presentation of the importation license until the date mentioned above, January 1, 1921.

Fourth: That import licenses will be issued by the Department of Agriculture, Commerce and Labor on the report of the corresponding Collector of Customs that there is sufficient bonded warehouse space to store the amount of rice in question, either public or retained by the importer.

Fifth: In the case of failure to remove rice consignments within the 30 days specified from the docks or bonded warehouses, storage charges for the following ten days will be double, with an additional charge of 25 per cent for every following week of seven days of such delay.

Sixth: Failure to remove rice consignments from docks and warehouses within the time specified will lead to cancellation of the measures of restriction upon importation.

Seventh: Licenses will be reported to the Secretaries of State and Finance.

The Secretary of State will forward a copy of this resolution to Consuls and Consular Agents, and the Secretary of Finance will see that the measure is observed at Customs Departments.

Signed in the Presidential Palace, this 6th day of September of 1920.

M. G. MENOCAL,
President

E. SANCHEZ AGRAMONTE
Secretary of Agriculture, Commerce and Labor

637.116/148: Telegram

The Minister in Cuba (Long) to the Secretary of State

[Extract]

HABANA, September 22, 1920—11 a.m.

[Received 9:25 p.m.]

219. President Menocal yesterday noon showed some displeasure because Vice President Nuñez, who left for Washington last Monday morning, had announced he would there discuss the rice situation.

While President Menocal's intentions seem to be all right he allowed his Secretary of the Treasury to prepare in an anti-American spirit the decree of September 8th [6th] which not only does not live up to the agreement of August 17th but renders more difficult than before its issuance (if that be possible) practical solution of rice problem. New plan of settlement by price fixing now being discussed gives some suggestion of hope.

I may be able to induce Menocal to make another effort. Chances would be improved if I had stiff telegram from Department to show to Menocal confidentially. . . .

LONG

637.116/148: Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, September 30, 1920—5 p.m.

173. Your September 22, 11 a.m.

The Department refers to its 147 of August 28, concerning the rice situation and desires that you call upon President Menocal and express to him the deep regret of this Government that the decree issued on September 6th differs materially from that agreed upon on August 17. You may intimate to him that this Department is very much in earnest in its desire that he shall redeem his repeated promises made to Mr. White and yourself as reviewed in your despatch number 393 of September 9th.

You may reiterate to the President that the Department does not desire to urge any agreement which would bring about a rise in the price of rice to the Cuban consumer. The decree of September 6th, as issued by the President, is understood by the Department to be at variance with the commitment given by the President, and does not tend to encourage Cuban buyers to respect their contracts. The Department is confident that President Menocal will see the justice of these observations and will use his best endeavors to reach a practical solution of this problem.

In view of the near approach of the time limit mentioned in the fifth and sixth clauses of the decree of September 6th, you will impress on the President the necessity for early action which will effect a satisfactory solution.

Cable the Department the present status of the matter and outline briefly the "new plan of settlement by price fixing" referred to in your September 22.

COLBY

637.116/160

The Minister in Cuba (Long) to the Secretary of State

No. 445

HABANA, October 8, 1920.

[Received October 14.]

SIR: Referring to previous correspondence on the rice matter I have the honor to enclose, herewith, a copy of a letter which I addressed to the President of Cuba on the 4th instant urging that some satisfactory solution be arrived at immediately in this case.

As reported in my telegram (No. 234) of October 7th,⁸⁴ the representatives in Habana of the California Rice Association were informed by General Agramonte that licenses have been issued to cover the importation of 29,500 bags of rice contracted for before September 6th, and that other requests for licenses of the same category are now pending decision. With full knowledge of this the representatives of the Rice Association came to an agreement with General Agramonte for remedial action to be taken within the first 10 days of November—that is after the Cuban national elections. The rice representatives are most anxious that the fact that this arrangement has been come to, and the details thereof, should be kept strictly confidential. I have, therefore, reported the details only in my personal and confidential letter to the Honorable, The Secretary of State, of the 7th instant.⁸⁵

I have [etc.]

BOAZ W. LONG

[Enclosure]

The American Minister (Long) to President Menocal

HABANA, October 4, 1920.

DEAR MR. PRESIDENT: I am in receipt of an urgent instruction from Washington in relation to rice, the substance of which I should like to bring to your personal attention at an early date, but having been told that Secretary Agramonte has indicated to Doctor Busta-

⁸⁴ Not printed.

⁸⁵ Not found in Department files.

mante a desire to confer with the rice people on the 5th instant, and assuming that you have no objection thereto, it would appear to be preferable to await the result of that conference.

There seem to be three ways in which it can be settled. First, issue the decree as agreed upon by the Secretary of Agriculture, the rice people and your office on August 17th; secondly, issue the decree recently prepared by Doctor Bustamante; thirdly, modify the decree promulgated September 6th by prohibiting importation for six months, i.e., to March 6, 1921, by saying applications for licenses must be countersigned by President—that decree is not retroactive—and if possible remove preamble and cancel article six. Maybe if Doctor Agramonte had a word from you he could settle the matter in tomorrow's conference.

I was considerably depressed to learn from you last Thursday morning, that there were objections to parts of the new decree as prepared by Doctor Bustamante. I inferred, however, that the question of extending the decree of September 6th to provide for six months license of importations was acceptable, which meant that no new rice would be licensed for import until the present stocks had been consumed or reduced to normal.

You told us at "El Chico" on the 21st ultimo also, that you thought the old decree should not be retroactive, which meant that the importers need not remove from the docks rice in port prior to the promulgation of the decree.

As this is a personal letter I see no reason why I may not say that the introduction to the decree of September 6th is most objectionable. Doctor Montoro is understood to have promised Mr. White that it would be deleted, and it would be a happy circumstance if this might now be accomplished.

If the old decree were modified to provide for an airtight prohibition against importations of rice for six months, and if the clauses relating to the removal from the docks were not retroactive and clause six were removed, the old decree might prove to be acceptable to the rice people. After these months of negotiations I am sure both you and I would be glad to see a settlement reached.

I am [etc.]

BOAZ W. LONG

837.116/170

The Minister in Cuba (Long) to the Secretary of State

No. 507

HABANA, October 29, 1920.

[Received November 2.]

SIR: Referring to previous correspondence in regard to the rice situation, I have the honor to report that I have been approached by

the local representatives of the California Rice Association who state that the moratorium⁸⁵ has materially changed their position and renders questionable whether their difficulties will be met by the proposed decree which the Cuban Government has promised to issue some time between November 1st and 10th.

It was the expectation of the Rice Association that their contracts would be taken up during November after the issuance of the decree but the moratorium effectively prevents any such arrangement being consummated.

The local representatives of the Association are therefore urging on their principals, the advisability of asking the Department to approach the Cuban Government with the view of having it take over the rice stocks now in the Island and for this purpose to approach the American Bankers who are now considering the giving of financial assistance to Cuba with the view of having them underwrite an extra 20 Million dollar loan to the Cuban Government which might be made a part of the larger loan or else be considered as a special loan on specific terms.

The Rice Association fears that unless specific provisions to the contrary are made by the American Bankers in advancing this loan it might be used in giving credits to Cuban merchants who have refused to meet their contracts and who would then be able to buy from the stocks already on hand in Cuba at a cheaper price, merchandise which they refused to accept earlier at the contract price.

I have the honor to request the Department's instructions as to what action, if any, should be taken by the Legation in regard to this matter.

I have [etc.]

Boaz W. Long

637.116/170: Telegram

The Secretary of State to the Minister in Cuba (Long)

[Paraphrase]

WASHINGTON, November 17, 1920—6 p.m.

241. In reference to your despatches nos. 445 and 507, in regard to the rice matter. Should the Cuban Government not have fulfilled its promise to continue the rice embargo and to protect in other ways the American rice exporters, as you reported in your despatch no. 445, you will urge the Cuban Government to act as indicated without further delay. You will communicate the result to the Department.

COLBY

⁸⁵ See pp. 44 ff.

687.116/183

The Minister in Cuba (Long) to the Secretary of State

No. 564

HABANA, November 22, 1920.

[Received November 29.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction No. 241 under date of November 17th referring to the situation in regard to American rice exporters in Cuba.

On November 19th there appeared in the *Official Gazette* a new decree, copies of which I transmit herewith,⁸⁶ which the Rice Growers Association's representatives tell me is all that they could desire at the present moment. It is to be noted that Article No. 6 has been changed. Whereas in the prior decree it stipulated that unless the Rice Growers could comply with Articles 2 and 5, the decree would be annulled, in this new decree Article No. 6 merely stipulates that the President has the power to revoke the decree should he see fit. Furthermore I have been informed by the Rice Growers Association that the Cuban Consuls will be reinstructed to certify no invoices for rice until the expiration of the present decree which is March 31, 1921.

I have [etc.]

BOAZ W. LONG

McGIVNEY AND ROKEBY CONSTRUCTION COMPANY'S CONTRACT OF JUNE 23, 1908; PROPOSAL BY THE UNITED STATES FOR ARBITRATION OF DISPUTES BETWEEN THE COMPANY AND THE CUBAN GOVERNMENT, MARCH 25, 1919; DIRECT SETTLEMENT OF THE DISPUTES AND TERMINATION OF CONTRACT⁸⁷

4197/16

The Minister in Cuba (Morgan) to the Secretary of State⁸⁸

No. 683

HABANA, June 25, 1908.

SIR: I have the honor to enclose in duplicate, copy of the Provisional Governor's decree No. 681, issued on the 22nd instant, by which it is resolved that the Government of Cuba shall enter into a contract with the McGivney and Rokeby Construction Company, organized under the laws of New Jersey, for the installation of a system of sewers and for certain work of street paving in the City of Havana, which contract is a continuation, with certain important modifications, of that which was signed on January 10, 1902, under the American Government of Intervention, between the Municipality of Havana and Messrs. McGivney and Rokeby.

⁸⁶ Not printed.⁸⁷ For previous correspondence concerning the McGivney-Rokeby contract, see *Foreign Relations*, 1905, pp. 265 ff.⁸⁸ The original bears no date of receipt.

This decree, which gives the text of correspondence between President Roosevelt, Secretary Taft and Secretary Root relating to the matter in hand, contains among other important provisions the following: Two-thirds of the cost of construction shall be assumed by the Cuban Government the expense to be met from a fund created from ten percent of the customs revenues of the port of Havana accruing during the next seven years and such additional time thereafter as may be necessary to complete the payments under such contract. This ten percent shall be a charge upon the Treasury next after the fifteen percent already reserved from the customs receipts of this port to meet the principal and interest on the Speyer loan of thirty-five million dollars.⁸⁸ The Municipality of Havana shall bear the remaining one-third construction expense which it shall ultimately repay to the National Government for advances which the latter shall make. The supervision of the execution of the contract shall be under the direction of the Head of the Department of Public Works, under whom shall be a supervisor of construction, with an annual salary of \$7,500, to be known as the "Chief Engineer of the Havana Sewer and Paving Contract", who, appointed by the Provisional Governor or Chief Executive of the Republic, shall be removable only "for cause duly established after due notice and public hearing." This last provision is of moment since it tends to give continuity to the work of supervision and to free it as far as possible from political control.

I have [etc.]

EDWIN V. MORGAN

[Enclosure]

*Executive Decree No. 681, June 22, 1908, Granting a New Contract to the McGivney and Rokeby Construction Company*⁸⁹

HABANA, June 22, 1908.

Whereas, by Article V of the Appendix to the Constitution of Cuba and by treaty stipulation with the United States there is imposed upon the Government of Cuba the duty of carrying out works for the sanitation of the Island, and the general government by Decree No. 894 of August 26, 1907, has assumed general control of matters pertaining to sanitation, and

Whereas, in order to provide in part for the sanitation of Havana, on January 10, 1902, the said municipality entered into a contract with Samuel P. McGivney and Ralph T. Rokeby for the installation of a system of sewers and for certain work of street paving in said

⁸⁸ The contract for the loan was negotiated in 1905 between the Government of Cuba and Speyer & Company of New York.

⁸⁹ Published in the *Gaceta Oficial*, June 23, 1908.

city, which contract has, by consent of the City of Havana and the approval of the Chief Executive of the Republic been transferred to McGivney and Rokeby Construction Company, a corporation organized under the laws of the State of New Jersey; and

Whereas, since the date of said contract the city of Havana has failed to cause the same to be executed, and is not now in a position to carry the same into effect for lack of funds; and,

Whereas, in view of the foregoing conditions, the Secretary of War addressed to Governor Magoon a letter bearing date March 5, 1908, referring to and making a part thereof a letter from the President of the United States to the Secretary of War bearing date March 2, 1908, accompanied with a letter from the Secretary of State bearing date February 29, 1908; and a letter from the Secretary of War bearing date February 1908, all of which correspondence is referred to and made a part hereof, and is as follows:

March 5, 1908.

My dear Governor Magoon: I send you herewith copy of Secretary Root's letter to the President in respect of the McGivney and Robeby contract for sewerage and paving the City of Havana, and also copy of the correspondence which I sent him on the same subject, together with a copy of the President's reply thereto. In accordance with the President's expressed concurrence in the views and recommendations set forth in this correspondence, you are hereby directed to carry out the plan therein outlined.

Very sincerely yours,

(signed) Wm. H. Taft,
Secretary of War

Hon. Charles E. Magoon,
Provisional Governor of Cuba

The White House,
Washington, March 2, 1908.

My dear Secretary Taft, I have considered your letter of the 25th ultimo and also the letter of Secretary Root of the 29th ultimo, setting forth the history of the construction contract made in January, 1902, for sewerage and paving the city of Havana, Cuba, and embodying your recommendations as to further steps to be taken to complete the work thereunder.

I concur in the views and recommendations set forth in these letters and am gratified that the way now appears to be open for the prosecution of this important work of sanitation to a speedy conclusion.

I return herewith correspondence in the case for the proper action.

Sincerely yours,

Theodore Roosevelt

Hon. Wm. H. Taft,
Secretary of War

Washington, February 29, 1908.

Dear Mr. President: Secretary Taft and Governor Magoon have talked freely with me regarding the present situation of the contracts for sanitary work in Havana and in Cienfuegos, and I have read the letters of Secretary Taft addressed to you upon these subjects.

While I am not in a position to speak regarding the details of those transactions, I think it highly important, from the point of view of the Department of State that something effective should be done in both cases. The provisions of the Cuban Constitution, following the legislation known as the Platt amendment and of the treaty between the United States and Cuba following those provisions, especially impose upon the Government of Cuba the duty to execute, and, so far as necessary, extend the plans already devised, or to be mutually agreed upon for the sanitation of the cities of the Island; and among the plans specifically designated as already devised at the time the Island was turned over to the Cuban Government on the 20th May, 1902, was the plan for the sewerage and paving the City of Havana. During all the time from May 20, 1902, until the recent intervention, the State Department has been urging the Government of Cuba to go on with these plans of sanitation. The execution of the plans is of the highest importance to the United States and especially to its seaboard commercial cities, whose trade was formerly seriously injured by the necessity of maintaining quarantines against the cities of Cuba. The provision which imposes on the Cuban Government the duty of sanitation works is a valuable treaty provision which the Government of the United States would not be justified in permitting to fall into desuetude. If, after our present intervention in Cuba has ended, it shall appear that we, ourselves, have taken such a course as to indicate that we do not think this work ought to proceed, it will be very difficult for us to maintain the proposition with the Cuban Government that it ought then to proceed.

In brief, the prosecution of sanitary work is a duty as to which we are bound to say that the Cuban Government ought to go on, and that duty rests upon the intervening Government, as well as it will rest upon the succeeding Government. If we do not recognize the duty now we cannot expect the succeeding Government of Cuba to recognize it when they come into power.

The performance of the duty of sanitation will have been greatly facilitated by the changes in the law that have been introduced under Governor Magoon and by which the work of sanitation has been nationalized, instead of being left to the separate municipalities as it formerly was. Now that the national Government of Cuba has assumed the responsibility for doing such work itself, there ought to be, and apparently there need be[,] no delay in the performance of the duty.

Faithfully yours,

Elihu Root

Washington, D.C., February [25,] 1908.

The President:

Dear Sir: The City of Havana is in need of an adequate sewer system, and additional street paving is also required by reason of the continued growth of the city.

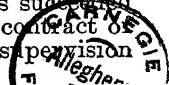
On June 21, 1901, pursuant to the laws in force bids were advertised for, by the City of Havana, for the work of constructing a system of sewers and for doing certain street paving. The bids were opened October 23rd of the same year, and those of Ralph T. Rokeby and Samuel P. McGivney, bidding together, were accepted for both classes of the work.

On January 10, 1902, a contract was duly entered into between the successful bidders and the city, and the contractors deposited the amount of \$500,000 with the city as security for the due performance of the contract by them, which amount still remains with the city. Under the terms of this agreement the contractors were obliged to commence work within thirty days after being notified by the Mayor of the City of Havana that funds were available in the City Treasury for the execution of the work, and to complete said work within four years from the date of such notification.

Work has never been commenced under said contract, the city never having given the notice that it had funds available for the purpose, and it is improbable that the revenues of the city will be found sufficient for the time to meet the requirements of said contract, in addition to the demands now being made upon them. The work of the sanitation of the Island is intimately connected with the sewerage of the larger seaport towns, and the proper paving of their streets. The general work of sanitation has been taken over by the central government of the Island, and work of this character, particularly in Havana, becomes to a large degree national in character. Furthermore, Article V of the Appendix to the Constitution, being one of the so-called Platt Amendments to said instrument, imposes upon the Government of Cuba the work of carrying out works for the sanitation of the Island, and this considered in connection with the liability of our southern ports to infection from yellow fever brought in from the ports of Cuba, renders this [a] question of international importance and one of special interest to the United States as well as to the Island of Cuba.

In view of the conditions, and in view of the further fact that Havana is the capital of the Republic, and that many of its public buildings and institutions are located there, it seems just and proper that the general government should take over this work, guaranteeing the performance of this contract and advancing the necessary funds. Since the work is of special benefit to the City of Havana, it should bear a part of the cost, and it is assumed that one-third of the cost would be a proper proportion to be borne by the city, the general government paying two-thirds. This division can appropriately be fixed by Decree, since under the proposed municipal law as approved by the Advisory Commission, it is provided that in works of this character where the expense is to be borne by the municipality and the general government, Congress may fix the proportions to be borne by each if the same is not satisfactorily settled by agreement.

It is therefore recommended that the Provisional Governor be authorized to issue his Decree sanctioning the execution of a supplemental contract between the State and the McGivney-Rokeby Construction Company, a New Jersey corporation, which has succeeded to the rights of said McGivney and Rokeby under their contract of January 10, 1902, whereby the State shall undertake the supervision



of the execution of said contract and the obligations of the City of Havana thereunder, and the said Company shall agree to the performance of the obligations assumed therein by said McGivney and Rokeby subject to the modifications hereinafter stated, and also fixing the manner of securing payment and the proportion to be reimbursed to the State by the City of Havana.

The modifications of the original contract necessary to be made in view of the delay in the execution of the said contract and the resulting changed conditions and because of the assumption by the national Government of control of the execution of the contract, and, in greater part, of the obligations of the municipality thereunder, have been the subject of conference between representatives of the contractors and of the Government, who have agreed upon a project of supplemental contract which is hereto attached. The covenants of the supplemental contract seem equitable and fair to both parties, thereto, and should, I think, be approved without prejudice to the right to extend the stipulations to cover other matters in respect of which mutual agreement can be had.

In the project of the supplemental contract attached hereto, the contractors have insisted upon such provision being made as to the funds necessary to complete the work as shall absolutely secure them in the due payment of the sums to become due under the contract.

To meet this request, which I think should be acceded to, it is suggested that the Decree authorizing the supplemental contract should fix the proportions of the expense to be borne by the State and municipality respectively, and should contain a pledge for the payments arising under the contract, of ten per cent, of the customs receipts of the port of Havana, next after the fifteen per cent, now set aside for the payment of the principal and interest of what is known as the Speyer Loan of \$35,000,000, the same to be set aside in the Treasury, and devoted solely to the disbursements arising under said contract, as assumed by the State. In accordance therewith, a suitable provision should be inserted in the contract.

The Decree should further contain a provision that the city shall reimburse the State to the extent of its due proportion of the expense from year to year, as the same is incurred, including the necessary amounts in its annual or extraordinary budgets for the purpose, reserving, however, the power which it may have under the proposed municipal law of reimbursing itself by charges or assessments against the property benefitted by the works.

It is respectfully recommended that the Provisional Governor be instructed to issue the necessary Decree for carrying the above modifications into effect.

Very respectfully,

Wm. H. Taft,
Secretary of War

And,

Whereas, it is now a matter of public necessity, as a sanitary measure, to provide the city of Havana with a system of sewers and street pavement substantially as provided for in the above mentioned contract; and

Whereas, the change of conditions since the said contract was made renders it necessary that certain alterations should be made in the plans and methods for carrying out said work; and

Whereas, pursuant to the foregoing correspondence and the direction of the President of the United States, negotiations between the Government of Cuba and the said Construction Company have resulted in an agreement for a new contract to be entered into between the Republic of Cuba by the Acting Secretary of Public Works, thereunto duly authorized party of the first part, and the said McGivney and Rokeby Construction Company, party of the second part, to be celebrated before any Notary Public in Cuba pursuant to law;

Now, therefore, in compliance with the foregoing correspondence and directions, in the exercise of the powers conferred upon me as Provisional Governor, and upon the recommendation of the Acting Secretary of Public Works:

I HEREBY RESOLVE:

ARTICLE 1. That the Government of Cuba will enter into a contract in due form with the said McGivney and Rokeby Construction Company containing the same provisions as those contained in said contract of January 10, 1902, the Government of Cuba assuming the same obligations as the City of Havana, and the said McGivney and Rokeby Construction Company assuming the same obligations as the said Samuel P. McGivney and Ralph T. Rokeby, in said contract, except as such provisions are modified by reason of the change in parties, but modified and amended, however, in the manner prescribed in said instructions above quoted, with such other modifications and stipulations as may be necessary and proper to carry out the purposes of said original contract, and as changed conditions may require.

ARTICLE 2. That the Acting Secretary of Public Works is hereby authorized on behalf of the Government of Cuba, to celebrate the contract herein provided for with the said McGivney and Rokeby Construction Company, in accordance with the terms and conditions of this Decree, before any Notary Public in Cuba pursuant to law.

ARTICLE 3. That the supervision of the execution of said contract shall be considered a part of the duties of the Department of Public Works, and it shall be the duty of the Secretary of that Department to make timely requisition upon the Treasury of the Republic for the necessary funds and to provide for the payments to be made under the said contract according to its terms.

ARTICLE 4. That there is hereby reserved and set apart ten per cent of the customs revenues of the port of Havana accruing for a

period of seven years, and such additional time thereafter as shall be necessary to complete the payments under such contract, from the date of said contract to be entered into, next after the fifteen per cent thereof now set aside for the payment of the principal and interest of the loan of \$35,000,000 known as the Speyer Loan, to meet the payments required by said contract, including the cost of superintendence and management, and also the portion of such payments chargeable to the municipality of Havana, as hereinafter provided, which amounts are to be advanced by the State and reimbursed to it by the municipality as provided in Article 5 of this Decree.

ARTICLE 5. That one-third of all payments to be made under the contract herein authorized, including expenses of superintendence and management and the cost of other works of sanitation specified in Article 6 of this Decree, rendered necessary by said work, and which may have to be done at the expense of the State, shall be chargeable to the municipality of Havana, which shall reimburse the same to the National Treasury in quarterly payments covering each quarter year, upon statements to be furnished by the Department of Public Works. The municipal council shall make provision for such reimbursement in its annual or extraordinary budgets, without prejudice to reimbursing the municipal treasury by assessments of the cost on the property benefitted according to the municipal law. The Department of Public Works shall opportunely furnish to the municipal council an estimate of the city's portion of the expenses on account of such work for the fiscal year in time for incorporation into the said budgets.

ARTICLE 6. That the Secretary of Public Works shall, as soon as practicable, prepare and submit to the Chief Executive, plans and estimates for the construction and repair of sidewalks, the repair and betterment of the water supply and distribution system of Havana, and other works necessary to the sanitation of said city and depending on or incident to the execution of the above-named contract, and shall further state the probable amount of money to be required annually for such works until completed.

ARTICLE 7. That there is hereby appropriated the said ten (10) per cent of the customs receipts of the port of Havana for the payments required to be made under the contract herein provided for, including expenses of superintendence and management, and sanitary works referred to in the preceeding article, and there are also appropriated for said purposes the amounts reimbursed to the State by the municipality of Havana as provided in Article 5 of this Decree, the said sums to be available until used. And all expenditures hereby authorized under the said contract shall be made upon the approval of the Chief Engineer of the Havana Sewer and Paving

Contract appointed as such pursuant to the provisions of the contract provided for herein.

ARTICLE 8. The supervision and control of the work done under said contract shall be and the same is hereby vested in an officer to be known as the "Chief Engineer of the Havana Sewer and Paving Contract," and said office of Chief Engineer of the Havana Sewer and Paving Contract is hereby created, with the powers, privileges and emoluments stated in said contract. Said Chief Engineer shall be appointed in writing by the Provisional Governor of the Island of Cuba or by the Chief Executive of the Republic. The salary of said officer shall be seven thousand five hundred (7,500) dollars per year, payable monthly. Said Chief Engineer of the Havana Sewer and Paving Contract is empowered to appoint, control, and remove any and all personnel required to be employed by the State in the execution of said contract, and to fix the rate of pay of said employees. His tenure of office shall continue from appointment during the term of said contract, unless sooner removed by the Provisional Governor of Cuba or the Chief Executive of the Republic, for cause duly established after due notice and public hearing. In case of the death, resignation, or incapacity to act of said officer, a new Chief Engineer of said Havana Sewer and Paving Contract shall be appointed by the Chief Executive of the Republic, after first hearing the Contractors and the Secretary of Public Works as to the qualifications of their respective nominees for the position.

ARTICLE 9. As no new pavements can be laid in the streets of Havana for sometime, and as the problem of the best class of street pavements for cities has not yet been satisfactorily solved, and improvements in such pavements are being made continually the question of the readjustment of the classes of pavement, new or otherwise, to be placed in Havana, and of the prices to be paid for such work, is left to the future, to be determined as herein provided, and in that behalf the Secretary of Public Works is authorized and directed to insert in said new contract herein provided for, a clause to the effect that the stipulations of the same, as well as of the original contract, may be altered, amended or modified at any time hereafter in the prosecution of the work by the mutual consent in writing of the Contractors and the Government.

And full power and authority is hereby granted to the Secretary of Public Works, with the approval of said Chief Executive after first hearing said Chief Engineer, to agree in writing from time to time with said Contractors as to any such alterations, amendments or modifications, as occasion therefor may arise in the prosecution of the work.

ARTICLE 10. The consent of the Government is hereby granted to the transfer by Samuel P. McGivney and Ralph T. Rokeby, of

all rights which inhere in them to occupy the maritime zone of Atarés Bay, Harbor of Havana, for an asphalt plant and for the purposes of wharfage and storage, under the permit granted them by Major General Leonard Wood, Military Governor, under date of April 22, 1902, to the Contractors, subject to the conditions named in said permit.

ARTICLE 11. A section of the Tallapiedra Wharf, sixty-six (66) meters long, next to and west of the west wall of the Arsenal prolonged, is hereby set aside for the exclusive use of the Contractors during the life of the contract.

Said space shall be used for wharfage and for loading and unloading vessels or lighters at said place with the proviso that the said wharf shall not be used as a place for permanent storage for materials, but only as a landing and temporary storage place, the Contractors agreeing to remove the material from said wharf in due course with due diligence.

This permit shall extend during the term of said contract, and shall be used by the Contractors only for the uses and purposes of carrying out this contract and not otherwise.

In addition to the above, and subject to the same conditions, the Contractors are granted, for storage purposes, the use of all the portion, not now occupied, of that parcel of land, the property of the State, lying between San Pedro Street, and a line running westerly parallel to the south front of the San Ambrosio Hospital building, from the northwest corner of the concrete wagonwashing platform of the Department of Public Works, situated on Factoria Street, and ending at the outer wall of the outbuilding of the San Ambrosio Hospital building.

ARTICLE 12. Free use of the city water is hereby granted to the Contractors, under reasonable restrictions to prevent waste as prescribed by the Chief Engineer.

ARTICLE 13. This Decree shall take effect on and after its date.

CHARLES E. MAGOON,
Provisional Governor

D. LOMBILLO CLARK,
Acting Secretary of Public Works

837.152H11/407

The Acting Secretary of State to the Minister in Cuba (Gonzales)

No. 777

WASHINGTON, *March 25, 1919.*

SIR: Referring to previous correspondence relative to negotiations for arbitration of the claims of the McGivney and Rokeby Construction Company against the Republic of Cuba arising out of the Com-

pany's contract of June 23, 1908 for paving and sewerage the City of Habana, the Department instructs you to present the enclosed draft of a protocol⁹⁰ for arbitration of the Company's claims to the Cuban Government for its consideration.

In presenting the draft protocol, you will call to the attention of the Cuban Government the following circumstances connected with the contract of June 23, 1908, which distinguish it from ordinary contracts entered into by the Cuban Government with American citizens and which give the Government of the United States a direct interest in its performance, and a right to procure arbitration of disputes arising under it:

By Article I of the Contract of June 23, 1908, the McGivney and Rokeby Construction Company undertook, with certain modifications, the performance of a contract of June [January] 10, 1902, for paving and sewerage the City of Habana, made by Samuel P. McGivney and Ralph T. Rokeby with the City of Habana. The Government of Cuba had, in effect, by Article V of the Treaty of 1903 between the United States and Cuba,⁹¹ promised the Government of the United States to carry out this contract of 1902. The pertinent provision of the Treaty of 1903 is:

"The Government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the Island, etc."

The phrase "plans already devised" etc., has been defined by Proclamation, dated May 20, 1902, of the Military Governor of Cuba upon relinquishing the government of the Island to the Republic of Cuba, as including the McGivney, Rokeby and Company Sewering and Paving Contract.⁹² The interpretation placed on the treaty provision by Military Governor Wood was in effect assented to by President Palma of Cuba, in a Proclamation accepting the Government of the Island.⁹³ Moreover, in his message to the Cuban Congress of April 28, 1905, President Palma again recognized General Wood's definition of this phrase of the Treaty and reaffirmed the obligation of the Cuban Government arising from the contract and the treaty provision.⁹⁴

You are further instructed, in this connection, to remind the Cuban Government that the Convention between the United States and other powers for the Arbitration of Pecuniary Claims,⁹⁵ to which both the United States and Cuba are signatory, provides that:

⁹⁰ Not printed.

⁹¹ *Foreign Relations*, 1904, p. 243.

⁹² *Ibid.*, 1905, p. 268.

⁹³ *Ibid.*, p. 268.

⁹⁴ *Ibid.*, p. 272.

⁹⁵ *Ibid.*, 1914, p. 1109.

"The High Contracting Parties agree to submit to Arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens and which can not be amicably adjusted through diplomatic channels, when said claims are of sufficient importance to warrant the expense of arbitration."

I am [etc.]

For the Acting Secretary of State:

ALVEY A. ADEE

837.152H11/416

The Minister in Cuba (Gonzales) to the Secretary of State

No. 1048

HABANA, July 25, 1919.

[Received July 29.]

SIR: Referring to the Department's instruction No. 831 dated June 27, 1919,⁹² with reference to the proposed arbitration of the McGivney & Rokeby Construction Company's claim against the Cuban Government, and to my telegram No. 33, dated July 18, 1919,⁹² I have the honor to transmit, herewith enclosed, the translation of Note No. 96, dated July 10, 1919, from the Cuban State Department, which fully explains the position taken by that Government in this case, and which constitutes the formal reply which was promised and mentioned in my telegram.

I shall await the Department's instruction before proceeding further in this matter.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure—Translation]

The Cuban Secretary of State (Desvernine) to the American Minister (Gonzales)

No. 96

HABANA, July 10, 1919.

MR. MINISTER: The purpose of this note is to reply to another which I had the honor to receive from Your Excellency bearing date of April 10th last, together with its accompanying enclosures, and which I acknowledged on May 8th informing Your Excellency that I had remitted it to the Secretary of Public Works for his report upon the matter, which fell within his jurisdiction.

A few days ago there was received in this Department a communication from the said Secretary upon this matter, and it is in view of this report, and also in view of previous notes which I have had the honor to address to Your Excellency, and of other antecedents

⁹² Not printed.

in the case which have come within my knowledge, that I now pass to explain the position of the Government respecting the subject of Your Excellency's communication of April 10th last.

In substance the note of Your Excellency states that it submits to the consideration of this Government a project of a Protocol, which is attached thereto, for deciding by means of arbitration the claims of the McGivney & Rokeby Construction Company, alleging as a basis for the adoption of that procedure of arbitral decision respecting the matter, that the circumstances of the contract of June 23, 1908, distinguish it from other ordinary contracts entered into by the Government of Cuba with American citizens, with the result that the Government of the United States has a direct interest in its fulfilment and a right to request that the disputes arising out of the said contract be settled by arbitration.

To that effect, and as a proof of those grounds, there is cited in the Note referred to, Article V of the treaty of 1903 between the United States and Cuba, in which promise was made to the Government of the United States to comply with, and even so far as necessary, to extend, the plans already in project for the sanitation of the cities of the Island, adding that the interpretation of what was understood by "plans in project", was given by the Military Governor of Cuba, General Leonard Wood, on May 20, 1902, upon delivering the Government of the Island of Cuba to the Republic, with the declaration that, in those plans already in project, the contract of the said Company had been included.

It is clear that the whole question at issue has been submitted in its entirety to the consideration of the President of the Republic, and it is in accordance with his opinion and instructions, and also with the written and verbal reports of the Secretary of Public Works, that I have the honor to give to Your Excellency this reply.

I must first of all express the deep regret, not only of the undersigned, but also on the part of the Government of Cuba, that it is not possible to always accede to all the desires and petitions of the Government of the United States; but there is no room for doubt that when the Government of Cuba, in attempting to accede to those desires and petitions, encounters law and legal principles contrary to the action sought, its plain duty is to explain the reasons that render impossible a favorable reply, since, however great its powers, it cannot act contrary to the laws and other principles of almost universal application, and if it were to do so despite the opposition of those laws, thus setting them aside, the Government of Cuba would permit the establishing of precedents which citizens and companies of other countries would wish to avail themselves of in the future.

With this declaration, and returning to the contract which is the subject of this dispute, I should state that it is important upon entering into a discussion of the matter, to examine it from the point of view of what is involved, to see whether in fact the questions raised by the Company can be vested with public and international character, and, in such case, do not treat exclusively of the private interests of a particular Company or Corporation, but are interests of such nature and so affecting the Government of the United States that if they are not protected, as the Company claims, the Government of Cuba would be failing of compliance with an international obligation and offering an offence against the Government of the United States.

The argument invoked in the Note to which I have the honor to reply, to justify the intervention and interest of the American Government in the pretensions of the contracting Company, is Article V of the treaty of 1903, entered into between the United States and Cuba, and which, in its relevant part, reads as follows:

“The Government of Cuba shall execute, and in so far as may be necessary, amplify, the plans already in project, or others which may be mutually agreed upon, for the sanitation of the cities of the Island, with the view of avoiding a recurrence of epidemic and infectious diseases, thus protecting the people and the Government [*commerce*] of Cuba, as well as the commerce and people of the Southern Ports of the United States.”

To this precedent of the Treaty, Your Excellency adds the declaration that the “plans already in project” are those reduced to the contract with the aforesaid Company, and this, moreover, is not denied.

But none of those precedents carry the category of that contract to that of a public and international agreement, since evidently the interest of the United States,—and in which respect it cannot be presumed to exceed that of the Government of Cuba—is that there shall be compliance with the plans for sanitation by means of the works which have been the object of that contract; and this interest of both Governments, American and Cuban, in so far as refers to the sanitation and paving and sewerage which were the purpose of the contract with the McGivney & Rokeby Company, has already been completely satisfied and fulfilled, since the said works are concluded for all purposes of the contract, whether done by the Company, or by the Cuban Government itself; wherefore, it does not appear that the Treaty mentioned, of 1903, has been infringed in any part, nor can it enter into question in this matter.

The rest, or that is, what remains in dispute between the Government of Cuba and the contracting Company, is a matter relating

solely to the private, pecuniary, purely economic interest of the Company, which claims what it cannot claim and which does not refer to the construction of the works which were the object of the contract since these works were completed with the paving of the nine hundred ninety three thousand five hundred (993,500) meters stipulated with the said Company.

So that the question today cannot be said to have public and international interest, that is—affecting the Nation as a Nation, but it treats solely of the private interests of a Company which obtained that contract by means of public bidding, the same as any other company could have obtained it, and what is now claimed is only the satisfaction of purely private and personal interests of said Company.

I permit myself to believe that only questions clothed in fact with public and international significance are such as can render necessary the mediation of one Government in another Government's relations with foreigners, even though the latter may be citizens of the Nation which it is proposed shall intervene,—because when the interests of those citizens have no public character, but are only of a personal and private order, they can only be heard and resolved by the administrative and judicial organs which, according to the laws, are established precisely for the function of hearing and deciding those questions; and only when, in this class of proceedings before the administrative and judicial powers, the legal resources and endeavors of citizens or companies in their disputes with a Government, become exhausted, can other and extraordinary procedure be initiated, such as, for example, the proposition of arbitration, when the claimant party alleges that all its ordinary legal resources have failed, and that it has been denied justice.

There is also mentioned in the Note of Your Excellency, in order to call the attention of this Government to the particular,—the Convention between the United States and other Nations, in which it is stipulated that pecuniary claims should be submitted to settlement by arbitration, and which reads as follows:

“The high contracting parties agree to submit to arbitration all claims for pecuniary losses or damages which may be presented by their respective citizens and which cannot be amicably adjusted through diplomatic channels, when said claims are of sufficient importance to justify the expense of arbitration.”

It is not possible to believe that that Convention, even though it were binding upon Cuba, could justify in the case under consideration, the procedure of arbitral decision, in the absence of the preliminary legal procedure which should have been taken by the Company and which is in force in Cuba, as in the majority of civi-

lized countries, and without which procedure it is not permissible that a Company should improvise an appeal to diplomatic consideration and to international arbitration, completely forgetting or cutting itself off from all that is established by the Constitution and laws of Cuba; but the truth is, in our judgement, that said Convention has acquired no legal force in Cuba, because, although it was in fact signed by the Delegates of Cuba and of other Nations, this was done only *ad-referendum* and consequently cannot be considered to have obligatory effect in the respective countries, until they have approved and ratified it in accordance with their Constitutions in force; it is thus resulting that the said Convention has never been approved by the Cuban Senate as required by clause VI of Article 67 of our Constitution.

The case of the contracting Company is that, contrary to all legal principles and laws of Cuba, it has not sought its remedy by the ruling procedure before the legal authorities and courts of justice which are properly charged with deciding such claims, and for this reason to agree that its differences with the Government of Cuba should be settled by means of an international tribunal of arbitration, would be to create a special jurisdiction for that Company and grant it the privilege of withdrawing itself from the procedure, laws and jurisdiction of the administrative and judicial authorities to which it should address itself for a settlement of its claim,—thus establishing a precedent bound to be invoked by other citizens and Companies and which would leave the laws of Cuba without legal effect as to foreign Companies.

The Company did establish some claims, but later abandoned them. For example, it took an appeal before the President of the Republic against a resolution of the Secretary of Public Works ordering the suspension of certain work which said Secretary considered was not authorized by the contract. The President of the Republic, by resolution of March 3, 1914, decided this appeal against the Company; and under the laws, there remained to the Company the right to apply to the courts, through the procedure known as "contentious-administrative", in which it could have asked for, and if justified, could obtain revocation of the President's resolution; but the Company did not do this, but refrained from establishing any judicial claim whatever against this resolution. Therefore the said Presidential Resolution was converted into a final and irrevocable decision, or what is known as "*Res [ad]judicata*."

In its other claims, the Company failed to file the appeals, which it could have done under the laws, against decisions of the Secretary of Public Works, thus allowing that all those resolutions should acquire the irrevocable character which everywhere inheres to *Res adjudicata*; the most extraordinary being the case where, instead of

conforming to the Cuban laws and adopting those legal measures, the Company decided to close its offices, abandon its contract which the Government of Cuba continued, cease all further work under the same, and betake itself to the United States without leaving in Cuba any representative with whom the Government of the Republic could treat.

That is to say, for the McGivney & Rokeby Construction Company the laws of Cuba have been a dead letter, as to procedure and appeals which should be resorted to by those deeming themselves prejudiced by resolutions of the Government; and instead of availing itself of those laws and proceedings it has preferred to ask the privilege of being heard by a tribunal of arbitration, which amount[s] to deciding questions already decided, the Company not having brought against the resolutions of the Government the appeals and proceedings provided by the laws of Cuba. What it seeks, therefore, is not that a pending question shall be settled by arbitration, but that resolutions be overthrown and revoked which were issued by the Government of Cuba in the exercise of its functions, and to which the Company consented, technically speaking, since it resorted to no appeals or other remedies which it was entitled to do under our laws.

For all the following reasons, the acceptance of the Protocol of arbitration accompanying the Note of Your Excellency and which would involve a Treaty or Convention between the Governments of the United States and Cuba, would be based on the principal fact that in this case the provisions of our Constitution in its Article 85 declaring that the Courts will take cognizance of all actions whether civil, criminal or contentious-administrative, are prescinded as to the contracting Company, as also the laws and provisions regulating the procedure for discussing and deciding questions between citizens or companies,—all of which the Government cannot do without clearly breaking those laws itself.

The Government of Cuba is willing to inform the Government of the United States of all the facts, circumstances and antecedents of this question, and for this purpose our Secretary of Public Works who has competent knowledge of the matter, was sent to Washington to confer with the American Government. If now the Government of the United States desires further reports it may present a complete, numbered statement of each and every of the grievances of which the Company complains, in the assurance that they will be answered, one by one, in a thorough and satisfactory manner by our Department of Public Works.

I avail myself [etc.]

PABLO DESVERNINE,
Secretary of State

837.152H11/416

The Secretary of State to the Minister in Cuba (Gonzales)

No. 882

WASHINGTON, October 29, 1919.

SIR: Referring to your No. 1048 of July 25, 1919, with which you transmitted a translation of a note, No. 96, dated July 10, 1919, received by you from the Cuban State Department, which states the position of the Cuban Government regarding the proposed arbitration of the claim of the McGivney and Rokeby Construction Company against Cuba, the Department instructs you again to urge upon the Cuban Government the necessity for arbitration of this complicated claim which has been so long pending.

The position of the Cuban Government, as set forth in its note of July 10, 1919, appears to be that the contract of the McGivney and Rokeby Construction Company for the paving and sewerage of the City of Havana is of a purely private nature, and that all disputes with regard to it should have been submitted to the Cuban courts, or to the administrative procedure provided by Cuban law. The Cuban Government admits that Article V of the Treaty of 1903 which provides:

"The Government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein."

has reference, among other contracts, to the contract of the McGivney and Rokeby Construction Company. The Cuban note, however, goes on to state:

"But none of those precedents carry the category of that contract to that of a public and international agreement, since evidently the interest of the United States,—and in which respect it can not be presumed to exceed that of the Government of Cuba—is that there shall be compliance with the plans for sanitation by means of the works which have been the object of that contract; and this interest of both Governments, American and Cuban, in so far as refers to the sanitation and paving and sewerage which were the purpose of the contract with the McGivney and Rokeby Company, has already been completely satisfied and fulfilled, since the said works are concluded for all purposes of the contract, whether done by the Company, or by the Cuban Government itself; wherefore, it does not appear that the Treaty mentioned, of 1903, has been infringed in any part, nor can it enter into question in this matter."

The contention of the Cuban Government, then, apparently is that Article V of the Treaty of 1903 gives the Government of the United

States a right to demand that the work necessary for the sanitation of the Islands be performed, and more specifically, that the work required by the McGivney and Rokeby Construction Company contract be performed, but does not give it the right to insist that the Cuban Government shall carry out its side of the contract which consists in allowing the McGivney and Rokeby Construction Company to perform the work, and in paying the Company in full for work performed. When the contract and the treaty are looked at in the light of all the circumstances, the fallacy of this argument is apparent. The contract is not separable into parts which may be performed independently; and, if the Cuban Government is obliged by a promise to the United States to "execute" the contract, it is obliged both to have the work done and to pay for work properly performed in accordance with the terms of the contract. Whether the work under the contract has been properly performed, and whether the Cuban Government has paid in full for work properly performed, can best be determined at the present time by arbitration.

Moreover, the original contract of June [*January*] 10, 1902, was made by officials of the Military Government of Cuba during the first American occupation, and the renewing contract of June 23, 1908, was made by the Military Government of Cuba during the second occupation by the United States. As the Government of the United States in effect during a military occupation entered into the contract for the benefit of the Republic of Cuba, it has a direct interest, even in addition to that given by Article V of the Treaty of 1908 [*1903*], in its complete execution. It should, moreover, be noted that Article IV of the Treaty of 1903, which has apparently been overlooked by the Cuban Government, specifically provides:

"All acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected."

The Government of the United States, therefore, both because of the provisions of the Treaty of 1903, and because of the fact that it negotiated the contracts in question for the benefit of Cuba during periods of military occupation, has a direct interest in the full performance of the McGivney and Rokeby Construction Company contract, both as to the performance of the work and the payment of just compensation therefor. The contract, made under these circumstances and given sanction by a treaty, is not a purely private one, but is one in which this Government has a special interest.

As to the present contention of the Cuban Government that the dispute should have been submitted to the administrative and judicial tribunals established by the laws of Cuba, it may be observed that that contention appears highly technical and lacking in substantial

merit when it is considered that there is admittedly no existing remedy before the courts or administrative authorities of Cuba and that the adequacy of such remedies at any stage may well be considered to be doubtful. In any event, the scheme of arbitration proposed in the draft protocol is believed to be fair to both sides, for, under it, an award may be made in favor of the Cuban Government against the Construction Company, or in favor of the Construction Company against the Cuban Government, as the proposed arbitration tribunal may decide upon the merits of the case.

It is difficult to understand the further contention of the Cuban Government that it can not enter into an arbitration agreement because of Article 85 of the Cuban Constitution which provides that such disputes as the present shall be submitted to the Cuban courts, and because the matter is now *res judicata*. If the contention of the Cuban Government were valid, no agreement with Cuba for the arbitration of an international dispute would be possible. It is not believed the Government of Cuba would venture to assume an attitude of opposition to the principle of arbitration, in view of the general practice of Governments to submit to arbitration, on occasion, the justice of their own governmental acts or even the decisions of their courts. If the decisions of the authorities of the Cuban Government in this case, which it is alleged make the matter *res judicata*, have been correct, they will undoubtedly be affirmed by the decision of the impartial arbitral tribunal provided for in the proposed protocol.

There is, then, above all in the present case the great interest of both Governments of reaching an amicable settlement of a long-drawn-out controversy—a controversy which has led to considerable irritation during its continuance, and a settlement of which can most fairly be made, because of the complicated nature of the case, by arbitration. The draft protocol submitted by you to the Cuban Government in your note of April 10, 1919, has for its purpose the attainment of this object.

You are instructed to bring the views of this Government on this case to the attention of the Cuban Government, and to intimate orally that this Government perceives no valid or substantial reason in the contentions of the Cuban Government why this whole controversy arising out of the contract of June 23, 1908, should not be submitted to a fair arbitration in accordance with the protocol proposed by this Government. You may also state orally to the Secretary of State of Cuba that unless the Government of Cuba, which is committed to the principle of arbitration by its adherence to the Hague Convention for the Pacific Settlement of International Disputes, is able to conclude a protocol for the arbitration of this

case along the lines of that submitted in your note of April 10, 1919,⁹³ this Government will be under the necessity of taking this position of the Cuban Government into consideration in other matters pending between the two Governments.

I am [etc.]

ROBERT LANSING

837.512H11/422 : Telegram

The Minister in Cuba (Gonzales) to the Secretary of State

HABANA, December 10, 1919—1 p.m.

[Received 3:52 p.m.]

55. Your instruction number 882, October 29. Secretary of State Desvernine says [he is] giving serious study to problem with desire [to] meet the wishes [of the Department,] but asks explanation of the oral statement as indicated in [the] last ten lines of instructions.

GONZALES

837.152H11/422 : Telegram

The Secretary of State to the Minister in Cuba (Gonzales)

WASHINGTON, December 16, 1919—4 p.m.

Your No. 55, December 10, 1 p.m.

You may say to Foreign Office that the United States Government has nothing to add to or in explanation of the oral statement referred to, but awaits with concern the reply of the Cuban Government to the American proposal for a full and fair arbitration of this unpleasant controversy.

LANSING

837.152H11/424a : Telegram

The Acting Secretary of State to the Minister in Cuba (Long)

WASHINGTON, March 20, 1920—5 p.m.

49. McGivney and Rokeby Case.

Department must again call this case to your attention and ask that you impress upon the Cuban Government the importance which this Government attaches to an arrangement for the settlement of this case in the near future. On March 25, 1919, Department transmitted through the Legation to the Cuban Government a proposed protocol of arbitration of this case.⁹³ I will not review the arguments presented at length in Department's instruc-

⁹³ Not printed.

tion on and since that date. It is sufficient to say that no substantial reply has been made by Cuba and no sound argument has been advanced by it against entering into an arbitration agreement. Cuba has not even agreed in principle to arbitration notwithstanding that she is a party to The Hague Conventions on arbitration of 1899 and 1907. It will be obvious to you that the good relations of the two countries cannot be cemented when one of them apparently refuses to take prompt steps to arrange for the settlement of an increasingly irritating dispute.

It is my earnest wish that a protocol along the lines of the above submitted be agreed to by the two Governments, and you are instructed to make another effort to obtain if possible the concurrence of the Cuban Government in this or a similar protocol. To this end please seek an interview with the President of Cuba and present to him forcibly the arguments heretofore outlined to the Legation and any others which may occur to you in this connection. Add that the United States is at a loss to understand the apparent indifference, if not the actual opposition, of the Cuban Government to the negotiation of a settlement of this case, and that it must unmistakably make clear to the Cuban Government that such an attitude cannot be viewed by the United States other than with concern; for the friendly intercourse of nations, as Cuba must know, is facilitated by the amicable and prompt settlement of pending disputes. If it is difficult for the Cuban Government to be a party to an arbitration of this case on account of internal politics, you may say that such difficulties are fully realized here, but at the same time you should point out that while it is appreciated that this consideration may be an obstacle to reaching an agreement to arbitrate, it must nevertheless be clearly understood that the settlement of disputes would never be arrived at if such conditions were to control, and that, after making every concession to that point of view, this Government is not in position further to delay settlement of this case for that reason. If the President refers to a proposal for "an informal arbitration" you may emphatically state that this Government is not now open to a proposal for any settlement of the dispute which binds neither party to abide by the decision and that the United States can only consider a proposal for a full and fair consideration of the case on its merits, free from technicalities, by an impartial commission empowered to render an award which shall be final and binding. During your discussion you are also instructed to impress upon the President that the United States cannot continue to overlook a disinclination on the part of Cuba to negotiate for an arbitration of this case in opposition to its com-

mitments at The Hague and that this Government must consider what steps it may take to obtain a recognition of the rights of the American citizens concerned and an adjustment of their long standing claim.

POLK

837.152H11/426 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, March 25, 1920—4 p.m.

[Received March 26—12:31 a.m.]

Purport of Department's March 20, 5 p.m., orally conveyed to President Menocal this morning. He stated he shrank from official arbitration because it would throw discordant details of a disagreeable difference before public and he regretted that informal arbitration was looked upon with disapproval. I assured him that some settlement was inevitable and in view of the fact that he preferred to avoid stirring up of a situation which was disagreeable, it might be reasonable to consider the advisability of reaching a direct harmonious settlement. He inquired how. I replied (basing my action on Woolsey's personal letter to me dated February 26, 1920⁹⁵) it was my personal opinion that if Cuba would offer to turn over direct to the contractors the 10 per cent of the payments due the company under the contract, some \$750,000 now on deposit in New York, that an amicable and prompt settlement could be effected. He replied that if I would send him a personal note to this effect he would give me his answer in a few days. From his attitude I assumed that the reply would be favorable if he could overcome Villalón's obligations [*objections*]. This being first indication of Menocal's disposition to conclude matter I shall send him note tomorrow morning and forward copy in pouch.⁹⁵

LONG

837.152H11/434 : Telegram

The Minister in Cuba (Long) to the Secretary of State

HABANA, March 27, 1920—midnight.

[Received March 28—3:05 a.m.]

80. My March 25th, 4 p.m. President Menocal informed me this morning in presence of Dr. Desvernine that representative of McGivney and Rokeby bearing full power of attorney, might now come here to settle on basis of Cuba turning over to contractors the

⁹⁵ Not found in Department files.

10 per cent of payments due company under the contract; that it [he] would request Secretary Public Works to draw up *acta* accepting work done by contractors which when signed by Government and accepted by authorized representative, would place upon Secretary of the Treasury responsibility of turning over deposit in New York or [of] Cuban bonds.

President Menocal has made clear that he thinks Cuba has not got value received but would settle this way to have humane treatment. . . .

LONG

837.152H11/434 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, April 13, 1920—1 p.m.

66. George B. Hayes, attorney for McGivney Rokeby Construction Company is leaving for Havana to represent Company in proposed settlement of claim against Cuban Government. He will arrive Havana Friday morning next, at latest.

Afford all possible and proper assistance in bringing about settlement.

COLBY

837.152H11/435

The Minister in Cuba (Long) to the Secretary of State

No. 82

HABANA, April 20, 1920.

[Received April 24.]

SIR: I have the honor to advise you that Mr. George B. Hayes reached Havana last Friday morning and that four hours thereafter we conferred with President Menocal who, when informed by Mr. Hayes that he was willing to settle on the basis mentioned in my recent telegrams, called in the Director of Public Works and advised him to prepare an "*acta*" which would embody the indispensable points relating to the contract and the method of settlement. Colonel Villalón was instructed by the President to go over the draft of the proposed "*acta*" with Mr. Hayes, so it might be signed at three o'clock on Monday afternoon.

About 10 o'clock Monday, April 19th, Mr. Hayes came here with a draft prepared by Colonel Villalón, the second clause of which contained a reference to pressure which had been brought upon Cuba by the United States Government. The expressions used were, in my opinion susceptible of various interpretations and I immediately visited the President and after some discussion with Villalón made

arrangements for the modification of the phraseology which were assented to by General Menocal. I desired to eliminate all allusions to the international character of the contract, but Colonel Villalón insisted that the real thing which inspired the Cuban Government to settle was the pressure from our Government, and thought it inappropriate to omit such a reference. I held the ground that our representations looked to an arbitration, but that President Menocal chose the more direct method. The discussion was all of a friendly nature, and after making the clause as innocuous as possible it was permitted to stand.

Enclosed please find copy of the original draft⁹⁷ as prepared by Colonel Villalón and of the modified draft as signed. Unfortunately an absence of clerks in this Legation prohibits my forwarding translations of the above.

The Secretary of Finance delivered to Mr. Hayes at 10:30 this morning the order to receive the Cuban bonds deposited with Speyer and Company, and the certificates to be exchanged for the bonds, thus closing the transaction.

I hope the part I have played in this matter may meet with the Department's approval.

I have [etc.]

BOAZ W. LONG

[Enclosure—Translation]

Agreement, April 19, 1920, between the Cuban Government and McGivney and Rokeby Construction Company for the Final Settlement and Termination of the Contract

In the City of Habana, on April 19, 1920, Mr. George B. Hayes and Mr. R. Floyd Clarke, representing the McGivney and Rokeby Construction Company under a power of attorney issued before Henry B. Pogson, Notary of the City of New York, dated April 6, 1920, and registered under No. 1280, and Messrs. Mario G. Menocal, President of the Republic of Cuba, José Ramon Villalón, Secretary of Public Works, and Luther Wagoner, Chief Engineer of the Contract for the work of sewerage and paving of Habana, who composed the Commission provided for by Article 26 of the specifications of June 27, 1901, for the acceptance of the work in sewerage and paving of Habana, being assembled at the President's palace, agreed upon the following:

First. That the work coming under the contract of paving and sewerage of Habana with the McGivney and Rokeby Construction Company has been completed and that the term of five years referred to in Article 20 of said specification of June 27, 1901, which form a part of the original contract has expired.

⁹⁷ Not printed.

Second. That in view of the International character assumed by the contract under consideration and taking into account the repeated instances of the Government of the United States of America for the purpose of arriving at a prompt and friendly solution, the President of the Republic of Cuba, wishing to maintain the cordial friendship which has always existed between the two Governments, has decided to accept the work performed and the termination of the contract by the free will of both parties and to cause to be returned to the McGivney and Rokeby Construction Company the bonds and securities deposited by it and also the deduction of 10 per cent made on the payments for work done.

Third. The McGivney and Rokeby Construction Company accepts this decision of the Honorable the President of the Republic of Cuba and hereby relinquishes all other claims of whatever nature that may arise from or be related to the contract. The President of the Republic of Cuba, the Secretary of Public Works and the Chief Engineer of the contract for sewerage and paving of Habana who, in this instrument, represent the Cuban State, hereby make an identical waiver.

Therefore, the President of the Republic of Cuba, the Secretary of Public Works and the Chief Engineer of the contract for sewerage and paving of Habana, in compliance with Article 26 of the specifications of June 27, 1901, which form part of the contract finally accept and receive the work performed by the McGivney and Rokeby Construction Company and hereby declare the contract between the said Company and the Cuban State at an end under the conditions herein above stated, and the Secretary of Finance is hereby authorized to cancel the bond in the sum of \$500,000. entered in favor of the McGivney and Rokeby Construction Company by the Continental Bonding Company and to return the 10 per cent now being held in the sum of \$720,000. in bonds of the Republic of Cuba and deposited with Speyer and Company of the City of New York.

And for this due record of the present instrument is drawn up and signed by both parties.

R. FLOYD CLARKE

GEORGE B. HAYES

*For the McGivney and
Rokeby Construction
Company*

M. G. MENOCAL

President of the Republic

JOSÉ R. VILLALÓN

Secretary of Public Works

LUTHER WAGONER

*Chief Engineer of the Con-
tract of Sewerage and
Paving of Habana*

CZECHOSLOVAKIA
THE TESCHEN DISPUTE WITH POLAND

(See volume I, pages 36 ff.)

DOMINICAN REPUBLIC

POLITICAL AND ECONOMIC AFFAIRS ¹

Progress of Reforms under the Military Government—Decision by the United States to Initiate Measures for Withdrawal from the Government of the Republic; Proclamation of December 23, 1920—Political and Economic Embarrassments of the Military Governor

839.00/2214a

The Secretary of State to the Chargé des Affaires ² in the Dominican Republic (Brewer)

No. 350

WASHINGTON, June 3, 1920.

SIR: From a study of the situation in the Dominican Republic, the Department is convinced that one of the important steps in the further progress of the country is the formulation and ultimate enactment of certain basic laws, especially those relating to elections, education and sanitation. It is, therefore, a matter of very great importance that definite steps be taken without delay toward the formulation of such legislation.

The Department is convinced that it would have an excellent effect, not only in Santo Domingo but throughout Latin America, if, as a first step, the Military Government were to appoint a commission composed of the leading men of Santo Domingo, and entrust this commission with the formulation of the above mentioned legislation and such other laws as may be deemed essential. It is understood, of course, that the report of this commission would in no sense be binding upon the Military Government. For this reason the Department feels that it would be best to confine this commission exclusively to citizens of the Dominican Republic.

You are therefore directed to take up this matter with the Military Governor and to secure a decision with the least possible delay.

The Department has been in consultation with Mr. Russell ³ with reference to this matter, and he has suggested that the commission be selected from the following list of persons.

¹ Continued from *Foreign Relations*, 1919, vol. II, pp. 98-145.

² Designation used for a clerk left in charge of a legation or embassy.

³ William W. Russell, Minister in the Dominican Republic; at that time in the United States.

Francisco Henriquez y Carvajal
Manuel deJ. Troncoso de la Concha
One good man from the North (Cibao)
Federico Velasquez y Hernandez
Jacinto de Castro (Lawyer)
Dr. Eliseo Grullón (Physician)
Eliseo Espaillet (Commerce)
Genaro Perez (Lawyer)
Francisco J. Peynado (Lawyer, Ex-Dom-
inican Minister at Washington)
Pelegrin Castillo (Lawyer)

I am [etc.]

For the Secretary of State:

FRANK L. POLK

839.00/2214

The Acting Secretary of the Navy (Coontz) to the Secretary of State

Op—13A

16870-493

WASHINGTON, June 24, 1920.

SIR: There is transmitted herewith for the information and files of the Department of State a quarterly report of the Military Governor of Santo Domingo for the quarter ending 31 March, 1920.

Very truly yours,

R. E. COONTZ

[Enclosure—Extracts]

*Quarterly Report of the Military Governor of Santo Domingo
(Snowden)*

[SANTO DOMINGO,] 1 April, 1920.

The conditions in the republic do not warrant at this time the withdrawal of American control. Matters have greatly improved, but a strong and honest government is still and will be necessary for at least ten years and perhaps more. Important measures for the vital benefit of this country are in process of working out. The public education is being spread over the entire country and has not yet entirely covered it; there are about 200,000 children in the country of school age, but we have so far provided for about 130,000 up to the end of this year and in the next few years as rapidly as money and suitable teachers become available we desire to get all the children into schools.

The chaotic condition of land titles in Santo Domingo has long been notorious. Dating back to the time when surveys were rare and herds of cattle roamed at large throughout the island, owner-

ship of land in common rather than individual ownership of definite parcels became a plague in the country. This condition was aggravated by the disorder attendant upon Haitian invasions, and periodic revolutions. The loss and destruction of authentic records created opportunities for fraud on a wholesale scale. Veritable title factories were put in operation in several parts of the Republic and produced fraudulent documents that kept titles clouded and land insecure. This uncertainty of property rights has done much to handicap the development of the country and to destroy the confidence which is essential in fostering a spirit of thrift and enterprise.

The situation was so disastrous to the public interests and so disturbing to the tranquillity of the country that relief was necessary not only to protect property but as a police measure helping to preserve public order.

Previous attempts of the Dominican Government to remedy this condition were half-hearted, and had little result. The Military Government has determined upon a vigorous measure at once cleaning up the debris of the old system and erecting a new system under which previous conditions would be impossible. A law has been drafted establishing adequate machinery to adjudicate all titles in the Republic and compel their registration under the "Torrens System" with guaranteed validity. All doubts as to titles will thus be laid forever at rest. The system projected has been tried out with success in many parts of the world where similar unsettled conditions deprived the ownership of land of any significance. The only unusual feature of the remedy which will be adopted here is that the adjudication and registration are compulsory. A Central Land Court will be established which will indicate for first attention the areas of the Republic where the situation is most acute. Comprehensive cadastral surveys will be made of these areas and entire districts cleaned up at once. It is thought that in this way the cadastral surveys can proceed in harmony with the Topographical Survey which is now in course and the Court can effect scientific results without being hampered or distracted by voluntary petition for the registration of isolated tracts. The law is now in process of translation and will probably be published in the month of June. Organization of the Court is proceeding in anticipation of its promulgation. Two American judges and one Dominican, learned in the law governing the question and knowing the Spanish language, have been appointed. It is expected it will take about five years to complete the settlement of titles.

The settlement of the land question is particularly important to the Government in that it will determine the extent of the public

lands and clear the way for a liberal Homestead Law by which the development of small land holdings can be fostered.

In pursuance of the beginning of the efforts for the settlement of the Haitian-Santo Domingo boundary question opened with the President of Haiti during my periodical visit to Haiti July 5th last, agreement has been made to submit the matter to the arbitration of His Holiness, The Pope, in accordance with the vote of a plebiscite of the Dominican people made in 1895. A protocol has been drawn up between the Department of Foreign Relations of this country and the Haitian Minister at this Capital to this effect, but it has not yet been signed.

Harbor improvements, road building, etc., are being proceeded with as rapidly as funds and the supply of labor will permit, but this is a continuous work of years to come.

Now to continue the public works for the next five years, it will be necessary to contract a new loan at the end of this year for about \$7,000,000. This is now in contemplation and the project will be laid before the Department of State as soon as perfected. There are enough reserve funds now in the Public Treasury to carry through the present year without borrowing and to pursue all public works for that period.

4. The Customs collections for the three months ending March 31 were \$1,661,000.00 as against \$976,067.71 for the corresponding period of 1919—a gain of \$684,932.29 and this in spite of the fact that the new tariff became effective January 1, 1920 and carries an average reduction of twenty-five per cent on the rates in effect 1910 to 1919. This increase might be thought to have been due to importations delayed until 1920 to take advantage of the new tariff were it not for the fact that the importations during the months of October, November, and December of 1919 were normal and indeed \$235,678.77 greater than for the corresponding period of 1918. It is apparent that the new tariff has helped to stimulate importations to this increasingly prosperous little Republic.

The increase in trade, larger number of vessels visiting Dominican ports during the past quarter, has strongly brought out the need for immediate increase and improvement in the port facilities to care for the natural increase in trade, and the Government program for port improvements and roads will be carried through to completion as rapidly as possible.

The policy of replacing old worn out and insanitary paper currency with new currency has proceeded. Some difficulty was experienced by the Government depositary in securing new currency for the Government's account, but arrangements have been made with

the Treasurer of the United States to furnish the new currency and permit its shipment to Santo Domingo.

From the shipment of \$85,000.00 of old Dominican silver coins sold at their metal value a profit of approximately \$54,000.00 over all expenses was realized and deposited to the credit of the National Treasury. A shipment of about \$30,000.00 of the same coins will go forward in April.

In an effort to help the poor people of the country meet the High Cost of Living a trial store in Santo Domingo has been established for the sale of the essential and staple articles of provisions. While the store has not been established long enough to permit of a definite decision as to its value, the indications are that it will be successful and a considerable help in keeping provisions at a reasonable price.

As required by Executive Order #272,³ the sum of \$388,176.95 or 30% of the customs collections in excess of \$3,000,000.00 for 1920 was devoted to the purchase of bonds of the 1918 issue due 1938 on February 1, March 1, and April 1. It is estimated that the bonds of this loan are placed as follows:

In the United States-----	\$1, 000, 000.
Redeemed -----	900, 000.
In Dominican Republic-----	1, 100, 000.
Still to be issued-----	1, 000, 000.

It is hardly likely that the total issue will be more than \$4,000,000. but the exact total will not be known until the commission finishes its work about May 31.

The agreement with the Fletcher American Company for the resale in the United States of such bonds as were purchased in Santo Domingo by the Department of Hacienda y Comercio expired January 31, 1920, and they declined to renew in view of the condition of the investment market and the low quotations of the bonds of the first loan and prior lien.

The market in Santo Domingo has thus far been maintained at a fair figure by a number of government purchases. It does not at the present time look as if it would be possible to continue the purchases and any further effort to stabilize these bonds will depend upon the conditions of the New York investment market. At present an effort is being made to have government depositories deposit bonds of this issue as security for deposits instead of other securities authorized.

³ *Foreign Relations*, 1919, vol.II, p. 148.

22. The relations between the Military Government and the representatives of the State Department and of the Receiver General of Customs have continued to be cordial and pleasant. The hearty cooperation of these representatives is greatly appreciated.

THOMAS SNOWDEN

839.00/2214a suppl: Telegram

The Acting Secretary of State to the Chargé des Affaires in the Dominican Republic (Brewer)

WASHINGTON, July 7, 1920—4 p.m.

21. Pending decision regarding other matters now under consideration in the Department, you will suggest to Admiral Snowden the desirability of postponing for the present appointment of commission referred to in Department's instruction, Number 350, dated June 3, 1920.

DAVIS

839.00/2219

The Chargé des Affaires in the Dominican Republic (Brewer) to the Secretary of State

No. 590

SANTO DOMINGO, July 16, 1920.

[Received August 4.]

SIR: I have the honor to refer to the Department's instruction No. 350 of June 3, 1920, directing me to take up with the Military Governor the matter of the advisability of appointing a commission composed of Dominican citizens to formulate for future enactment certain basic laws, especially those relating to elections, education and sanitation, and to secure a decision on this question with the least possible delay.

Immediately upon receipt of the instruction I handed to the Military Governor a memorandum in writing relative to the subject, which was discussed in detail by us. The Military Governor at once expressed the opinion that the appointment of this commission would serve no useful purpose, principally in view of the present state of unrest and agitation existing throughout the country, . . .

In order to have some expression of Dominican opinion in regard to the advisability of this Commission, the Military Governor called into consultation Messrs. Troncoso de la Concha and Joubert, Members of the Claims Commission, and in whose advice the Governor has great confidence. These gentlemen stated that they considered that the formation of the commission would only serve to increase

the actual agitation prevalent, and that its object would probably never be accomplished, if, indeed, men of suitable qualifications could be induced to form a part of its personnel. It was furthermore pointed out that laws formulated by a small number of Dominicans would undoubtedly serve as the first attack of Congress upon the re-establishment of a national government.

In connection with this question, the appointment of the late Advisory Council, and the immediate demand for results, as made upon it through the press, the inability of its members to unselfishly serve their country as advisors of the Military Government, without thought of their own political aspirations, were mentioned in our conferences as indications of what might also be expected of any similar group of Dominicans at the present time.

The Military Governor prepared a memorandum on this subject, which I herewith enclose.

The Department's telegram of July 7—4 p.m., No. 21—was received after the departure for Haiti of the Military Governor. Its contents will be made known to him on his return.

I have [etc.]

JOHN BREWER

[Enclosure]

The Military Governor of Santo Domingo (Snowden) to the Chargé des Affaires in the Dominican Republic (Brewer)

1843-20

SANTO DOMINGO, June 29, 1920.

ENACTMENT OF BASIC LAWS

1. Replying to your verbal request for information regarding the enactment of certain basic laws, etc., I beg to state as follows:

Regarding the enactment of certain basic laws, viz: as to elections, education and sanitation, as herein recommended, the first has been under careful study for some months and will not be needed for some years as the people are not yet educated to the value of the vote. The mass of the people have been brought up to what is called "personalismo" or to vote for a certain man no matter what were his principles and not for an ideal or principle itself. It is a relic of the old feudal system. Education is teaching the people the value and power of the vote and to separate the principle from the man.

As to education and sanitation, both these subjects have been exhaustively treated and laws covering completely these activities have been promulgated and have been in use for some time. Of course, improvements will be made from time to time in both our educational and sanitary programs, but these matters are now efficiently operating as never before.

The Military Government was requested by the now defunct Advisory Council to the Military Governor and also by Dr. Francisco Henriquez y Carvajal to enact the following laws which they deemed essential to the future good of the republic:

An electoral law upon modern lines.

A law of Communal Organization.

A law of Conscription.

A law modifying the law covering Rules and Organization of the Provinces.

A law of Rules and Regulations governing the Treasury, Public Accounting and the budget.

Reform of the Constitution, especially regarding the replacement of the President in case of death, resignation or incapacity.

A law governing the formation of political parties.

Organic law of the Executive Power, organization of the several departments and the succession to the presidential office.

Law of organization of the Judicial Power.

Law of Civil Service.

Law of Sanitation.

Law of Communications.

Law of Public Instruction.

Law of Police.

Amongst other requests the petitioners requested the abolition of the Censorship and the Provost Courts. The former has been done, the latter cannot be done while any military forces are in the republic, because the Dominican Courts will not give justice in cases where the Military are concerned but will always favor their own however glaring the facts of the case.

Upon receipt of the requests from the Advisory Council and from Dr. Henriquez y Carvajal, the undersigned directed the Department of Justice and the other departments concerned to make a comprehensive study of the suggested laws and formulate efficient laws for the several purposes in view. This is being done as rapidly as possible.

The Electoral Law is now under study by the Department of Justice and will be ready long before it can be put into operation. The people are not yet prepared for voting and will not be so for some years. I believe that it will not be practicable to inaugurate elections until the United States shall be ready to withdraw from the republic, because, in the present state of political agitation, the people under the lash of the old vicious politicians would elect members of the City Councils and Governors of Provinces with whom the Military Government could not work because of their obstructive policy.

A law of Communal Organization has been amended as necessary and promulgated.

A law of Conscription has been settled by a law abolishing conscription and the Army. This has been promulgated. No army is needed in this country other than the Guardia Nacional Dominicana, which is a mounted constabulary. The United States must always keep the peace between the West Indian republics.

A law covering the organization of the Provinces has not yet been promulgated. Affairs are not now in condition to formulate a law as to provinces as this matter is in a state of evolution. We have the Governors at the head of all provinces, but owing to the presence of the United States Military Forces the Governors are shorn of some of their military functions for the sake of coordination and are for the present aids to the Executive Power and leaders for the central government within their provinces. It is not practicable for the moment to smoothly settle this question.

A law of Rules and Regulations governing the Treasury, Public Accounting and the Budget has been completed and is about to be promulgated.

The reform of the Constitution as to the succession to the presidency should be done by a National Assembly, although the Military Governor might issue a temporary law to arrange this matter until regulated by the representative bodies.

A law governing the organization of political parties has not yet been considered; this seems for the moment premature.

An organic law relating to the Executive Power and the organization of the several departments has not been considered, although a study will be made regarding it.

A law of organization of the Judicial Power has not been considered. The Judicial Power was especially exempted from interference by the Military Government under the Proclamation of Occupation. The judicial code is the old Napoleonic Code and should be replaced by modern methods of jurisprudence, but the Military Government has not thought it wise so far to disturb the existing methods.

A Civil Service was instituted in one department of the Government more than two years ago and during the present year a Civil Service Law extending Civil Service to include all employees of the Dominican Government was promulgated. This law has been in successful operation for several months.

A law of sanitation has recently been promulgated and has been in operation for about six months.

A law of communications is not of immediate necessity, but will be studied and promulgated when it is warranted. No necessity exists at present for a special law covering these activities.

A law of public instruction has been promulgated and has been in successful operation for over three years.

There is no immediate necessity for further police laws. This force is a civil one under the city councils and is working well.

The people who have been theorizing upon these laws do not know that many of them have been in use for some years, as they have been absent from the republic for a long time.

Referring to the suggestion of the appointment of a Dominican Commission to study and formulate certain basic laws, the undersigned called into consultation Mr. M. Troncoso de la Concha and Mr. Emilio C. Joubert, eminent Dominican lawyers and members of the Dominican Claims Commission under the Military Government, in whom he has the utmost confidence, and asked their advice regarding the appointment of a Commission of Dominicans to recommend certain laws as specified in your memorandum and their opinion was, and in this I fully agree, that the appointment of such a commission would serve no good purpose and in any case I could probably get no one to serve on such a commission owing to the political propaganda now rife in the country, but that I could get all the advice I desired from individual Dominicans. The former Advisory Council was so viciously attacked by the politicians and by the newspapers that they do not believe that any body of representative men would be willing to again become the target for political attack. The Military Government will continue its study and periodical issuance of the specified laws and obtain the advice thereon of qualified and loyal Dominicans, but it does not believe it wise to appoint another commission in the present state of public opinion. . . .

It would appear advisable to calm this excitement by an official statement by the American Government to the effect that that government would restore the government of the republic of Santo Domingo to its own people as soon as the government of the United States felt sure that the Dominican people were competent to manage their own government without return to conditions such as obtained before the occupation, but that nothing would induce the United States to turn over the government before it should be thoroughly satisfied as to such competence. Recent events have shown that the country is not yet able to give peaceable and efficient government to its people and the United States would await such evidence before restoring the government.

The gist of this whole antagonism shown at the present time is due to the expressed fear of the politicians that the United States does never intend to restore the country's sovereignty, but retain the island. If this country could be assured that their sovereignty would ultimately be returned, most all this agitation would cease, because the mass of the people favor the temporary occupation and only the spoils politicians are stirring up the people. One of the Governors

of the Provinces, a strong friend of the Military Government and of the United States, has offered the advice that a treaty should be made between the two countries guaranteeing the independence of this republic in return for certain concessions desired by the United States. The politicians here are using the silence of the United States regarding the restoration of their independence to say in Latin-American countries that the United States does not intend to restore their sovereignty but to retain the island.

THOMAS SNOWDEN

839.00/2231

The Secretary of the Navy (Daniels) to the Secretary of State

Op-13A

16870-526:1

WASHINGTON, *September 1, 1920.*

SIR: I have the honor to forward herewith, for the information of the Department of State, a copy of a report by the Military Governor of Santo Domingo for the period April 1, 1920, to June 30, 1920.

Sincerely yours,

JOSEPHUS DANIELS

[Enclosure—Extracts]

*Quarterly Report of the Military Governor of Santo Domingo
(Snowden)*

[SANTO DOMINGO,] *1 July, 1920.*

3. The Military Government continues to progress satisfactorily in carrying out its mission. Reference (n),^a copy enclosed, outlines the mission and accomplishments to date and the work yet to be completed by the Military Government in this country before the Occupation of the Dominican Republic can be safely terminated. It is believed that a period of at least ten years will be necessary for the completion of the mission of the Military Government.

Organized resistance to the Military Government having been ended by military activities and an example of good government peaceful conditions continue to prevail throughout the Republic. The maintenance of these peaceful conditions is absolutely essential to the development of this country and the accomplishment of the mission of the Military Government and endeavor will be made to secure the continuance of these conditions by the use of every means under the command of the Military Government. Patrolling

^a Refers to a list of lettered references at the top of this document; reference (n) printed as subenclosure, *infra*.

throughout the Republic by the Marines and the Guardia has been performed extensively for the purpose of quelling any incipient disturbances and to combat the existence of a few small bands of common outlaws. These outlaws are for the most part malcontents and vagabonds who operate in the thinly settled districts, robbing their own people when an opportunity presents itself. Patrolling has resulted in five engagements with twelve casualties among the outlaws and none among the Marines and Guardia. The efficiency of the Guardia is improving greatly and they are doing excellent work in patrolling, capturing criminals, confiscating arms, guarding the border and in general performing the work of a constabulary. The Brigade continues to be under strength and it is recommended that sufficient troops be sent at the earliest possible time to bring the strength up to 2,950. The health of the troops has been excellent.

The former political factional parties and old revolutionary politicians have multiplied their endeavors to obtain the termination of the Military Government and the return of Dominican sovereignty to their hands and due to the abolishing of the censorship and the granting of full free speech, right of assembly and publication, etc., they have been able to spread much dangerous propaganda. The only restrictions placed on speakers, writers and publishers are the prohibitive measures of Executive Order No. 385, which provides for the punishment of offenders by Military Court for speaking, writing or publishing speeches or articles which tend to cause unrest and agitation and to urge the people to revolt. However, the Military Government has been extremely lenient toward the writers and publishers in its interpretation of Executive Order No. 385, and consequently articles of rapidly increasing violence and hostility toward the United States and the Military Government have been published, in spite of repeated warnings to the publishers. These articles caused a marked increase of unrest and agitation throughout the Republic extending even to the small farmers, many of whom fearing the retirement of the Military Government and the consequent revolutions and loss of the fruit of their labors, abandoned their farms and went into a state of vagabondage. The violence and hostility of articles and speeches and the resulting agitation reached its height in a so called patriotic week for the collection of funds to be used presumably for the restoration of Dominican sovereignty either by peaceful measures or by force of arms. The celebration of this week was not interfered with in any way, but it was then decided by the Military Governor that in order to insure the maintenance of peaceful conditions essential for the carrying out of the mission and reforms of the Military Government it was necessary to take immediate and decisive action to check the above

mentioned agitation. As a result several writers and publishers who have written and published the most hostile articles tending to stir the people to revolt and who have most flagrantly violated the provisions of Executive Order No. 385, have been arrested and are being tried by Military Courts. The effect produced by these arrests and trials has been excellent. A marked decrease in agitation has been noted and the people, having lost faith in the predictions of the early return of Dominican sovereignty made by these men, are settling down to the peaceful pursuit of their occupations. It is hoped that this will prove a lesson to the incendiary speakers and writers and prevent another effort on their part to stir up the people to revolt against the Military Government.

4. Customs collections for the three months ending June 30, 1920, amounted to \$1,761,988.36 against \$994,364.30 for the corresponding period of 1919, a gain of \$776,624.06. This gives a total collection for the first six months of 1920 of \$3,421,000.00 against a total of \$1,970,432.01 for the first six months of 1919. This indicates the great stimulation given to importations by the Tariff Revision made effective January 1, 1920, especially when it is considered that many articles now pay no duty whatever.

The number of vessels visiting Dominican ports during the past quarter has again exceeded the records of the preceding period of 1919. We now have three principal lines carrying freight in competition which are affording a very much better service to the Dominican people than they have received in the past. Freight is being more carefully handled, claims are fewer and steamers more frequent. The Military Government continued its efforts to obtain a reduction in the surcharge applied to shipments for the Port of Puerto Plata. It has continued negotiations with the Clyde Steamship Company and also with the Columbus Steamship Line and has every reason to believe that its efforts will be rewarded with success during the coming quarter. It has succeeded in having favorable recommendations made and the action of the head offices in the United States is the only thing remaining necessary before reductions are put in effect. The steady increase in trade is such as to crowd the present port facilities and to make it necessary that improvements now under way be hurried to completion as well as to let plans for future additions and betterments to be prepared.

The Banks have now collected approximately \$70,000. in the old Dominican silver coins. While the price of silver has gone down it is still possible to market these coins at a small profit. It is desirable to replace this debased currency with United States currency and accordingly a shipment will go forward about the end of July.

The trial Food Control Store, Santo Domingo City, for the sale of the essential articles of provision only, has been successful and has also served as a check on profiteering by the regular retailers. A new store will shortly be established at San Pedro de Macoris and it is planned to establish one at Santiago as soon as the necessary building and personnel can be obtained.

The collections of Internal Revenue have continued to increase being \$1,182,546.95 for the past quarter, making a total collection for the first six months of 1920, \$2,167,592.42 against collections of \$1,285,812.56 for the first six months of 1919. The collections for this period have been increased by the sum of \$194,320.54 collected in 1920 but applying under the property tax which was due for payment during 1919. The collections for the 1919 property tax are not all in yet nor will they be for some considerable time since the first re-appraisement of property in the Dominican Republic has not been completed. This appraisement is being pushed as rapidly as suitable men can be trained for the task, but the amount of work involved is naturally great, since no appraisement of real estate and improvements thereon had ever been made in the Republic heretofore. However, it may be stated that the collections from Internal Revenue for the year 1920 from taxes due in 1920 will, it may be confidently stated, exceed the estimate made at the end of 1919 by over one million dollars.

The public finances of the country are in excellent shape and it has been possible to appropriate large amounts for new activities and for public works from the surplus receipts over expenditures. Public works that have already been completed are showing returns in the increased commerce of the country and in the clearing and agricultural development of the land which can be seen on all sides. The necessity for hurrying forward the completion of the roads and bridges now under project as well as the various buildings, etc., is of the utmost importance. It is believed that the expenditures now planned for such improvements will be returned to the Treasury in increased revenues in a period of from five to not more than ten years after the completion of the projects.

There are now being prepared a new Ley de Hacienda, a new Banking Law, a new Negotiable Instruments Law and an amendment to the Property Tax Law. These will all be completed and ready for consideration of the Military Governor early in the coming quarter.

In accordance with the Military Governor's policy attention is being given to the reclaiming of property of the Government in

this vicinity and especially the property in the commercial section of the River Ozama, which though formerly belonging to the Government has been given away by past Dominican administrations or leased for long periods at nominal rents, or in other cases has been occupied by squatters. This property is now needed or will be needed in the very near future for the development of the Port of Santo Domingo City. One property has already been procured, while negotiations upon another parcel will be completed in a comparatively few days. The other properties are now under investigation and as rapidly as possible will be obtained by settlement with the present owners or lessees where a favorable settlement can be made or if necessary, by expropriation for the use of the State.

In the last report the statement was made that the bonds of the 1918 loan were selling at a price as low as 75, much below their true value. These bonds have been selling during the past quarter at as high as 87.5, which is a little less than at 6% income basis. This has undoubtedly been due to the large purchases for the sinking fund made necessary by the increase in customs receipts and to the fact that the redemption of the loan is now in sight. With the United States borrowing money on certificates of indebtedness at 6% and with the industrials selling upon a 7.5 and 8% basis the figures at which our bonds are quoted may be considered as indicating the high credit which the Military Government has been successful in establishing for the Dominican Republic, and, in view of the fact that about the first of the coming year it will be necessary to negotiate a loan for additional funds to complete the public works program, it is decidedly pleasing to see our bonds selling at what may be considered a very high price.

During the period covered by this report, anti-prostitution work has been more vigorously carried on. The Guardia Nacional, in accordance with Article 73 Ley de Sanidad, have rendered very valuable and active assistance in this respect. This work of the Guardia has not only caused a more general and complete rounding up of commercial and clandestine prostitutes, the great majority of whom were found to be infected with venereal disease, but it has caused an increased activity along this line by the municipal police and sanitary officials. Many foreign women convicted of prostitution have been deported.

During the period covered by this report, Executive Order No. 476 providing for administrative fines to be imposed by the Secretary of Sanitation for violations of the sanitary law and regulations, was promulgated. It is expected that this will be of material assistance in the enforcement of same.

The same order makes the testimony of a sanitary officer *prima facie* evidence.

16. EDUCATION. *Reform in secondary and normal schools:* On the 30th of June the Department of Public Instruction issued regulations and instructions which are intended to effect a complete reform in the curriculum and methods of instruction of secondary and normal schools. For over a year a test has been carried on in several schools to determine whether it was feasible to operate such a change to advantage. Careful study of conditions had demonstrated the undesirability of the system of organization previously in existence. Secondary schools were offering a course of study of an encyclopedical nature, with the result that in a single school year the student was compelled to take as many as twenty different subjects. Under such conditions it was impossible to make a thorough study of the principal subjects properly pertaining to the secondary schools, no vocational courses could be offered, and no laboratory work in physical or natural sciences could be thought of. Normal schools were in a similar condition. Prospective teachers were given a theoretical training, but when they were out of the normal school, confronting living conditions in the schools to which they were assigned, little utility could they derive from their long training.

The new system aims at changing verbal education for a real, effective and purposeful training of pupils which will allow them to fit advantageously in the society for which they are intended. The course of study has been organized on the elective principle. Vocational subjects have been introduced, and laboratory work in all branches requiring it has been made compulsory. The superficiality of the old system has been done away with an[d] modern methods of education have been implanted as far as possible.

Under the new organization, high schools will offer classical, commercial and scientific courses for boys and girls, and a course in domestic science for the latter.

School finances: The Military Government has made an additional appropriation of \$110,000. to supplement the school funds of several poor municipalities of the country. The Government having adopted the policy that all expenses for salaries of employees of the school service, including school authorities and teachers of all grades, are to be provided for with national funds, and all expenditures for rentals of school houses, janitors, school furniture and supplies, and other similar necessities, are to be provided for by the municipalities, it happened that some poor municipalities could not provide their part in the growing proportion that the Government was providing teachers. It was necessary, therefore,

to come to their rescue, and this has been accomplished by the appropriation here referred to.

It is expected that for the future all municipalities will be able to take care of themselves, they having been empowered to collect a land tax which will suffice for their needs.

An arrangement has been made to increase the salaries of teachers and principals of rural schools from \$40 to \$55 a month. It was not considered advisable to make this increase payable monthly together with the original salary, for one of the aims in making it has been to prevent the abandonment of the schools by the teachers in the course of the school year. It has therefore been provided that the increase will be paid in the form of a bonus every six months, and that any teachers who without reasonable cause leaves the service before the end of any such six monthly periods will forfeit their claim to the bonus.

17. The relations between the Military Government and the representatives of the State Department and of the Receiver General of Customs have continued to be cordial and pleasant. The cooperation of these representatives is appreciated.

THOMAS SNOWDEN

[Subenclosure]

*The Military Governor of Santo Domingo (Snowden) to the Secretary of the Navy (Daniels)*⁴

[SANTO DOMINGO,] 30 June 1920.

MISSION AND RESULTS OF MILITARY GOVERNMENT

1. The Chief of the Bureau of Latin-American Affairs recently asked certain questions of Lieut. Commander Ralph Whitman, C.E.C., U.S.N., one of the Aids of the Military Governor, and which that officer was not fully prepared to answer. There is, therefore, submitted the following information covering the questions asked:

Referring to the mission of the Military Government: "What steps have been taken to place the country in such a condition that the government could safely be turned over to the Dominican people?"

2. The Military Government has set the country an unassailable example of good government, free from graft, giving a square deal to all, and administration absolutely above reproach.

3. It has issued comprehensive sanitary and drug laws, and regulations in minute manner, covering all sanitary activities through-

⁴ A notation on this document adds "For the Department of State: Bureau of Latin-American Affairs".

out the republic. It has its sanitary officials in every section and is establishing hospitals and dispensaries everywhere possible.

4. It has organized the collection of the internal revenue of the country and these collections have now assumed much greater importance increasing under honest efficient management from an average of \$700,000.00 prior to the occupation to \$3,492,641.48 in 1919 with estimated receipts for 1920 of \$4,450,996.52. Certain taxes bearing unfairly upon the poor and acting as a drag to business in general have been eliminated and in their place the Government has established the tax on property—the first attempt at direct taxation in the Dominican Republic. To meet the additional expenses of the Government incident to the higher cost of services and materials and for the development of the Government Executive Departments and activities to permit of a more efficient service to the people and the extension of greater aid to public instruction, agriculture, road building, sanitation, etc., the Government is studying new forms of taxation for future promulgation with the object of placing this slight additional burden upon those best able to bear it.

The Government has revised the customs tariff of 1910 and placed upon the free list transportation media, agricultural machinery and tools, industrial machinery, building material and in general all articles necessary to the development of the republic. The rates of duty have been greatly reduced on articles of necessity where the reductions would assist in lowering the cost of living.

That this action has been for the best interests of the country is evident when it is known that it has resulted in an increase in importations during the first five months of its operation amounting in tons of cargo imported to 35,660 or 70% while following the rule of tariff revision the increase of volume of importations even at the reduced rates has resulted in record customs collections.

The methods of the Treasury Department have been revolutionized; graft, dishonesty and inefficiency with which the former treasury organization was honeycombed have been eliminated. The Contaduria has been reorganized and the final step is about to be taken by the division of the duties of the Contador between a Treasurer and an Auditor with efficient staffs. Arrangements are being concluded for the necessary reform of the communal accounting systems and from July 1, 1920, their accounts will be made uniform and so rendered as to permit of an efficient audit by the Auditor of the Republic.

The settlement of the floating debt of the republic in an equitable and just manner has just been completed. Inasmuch as there were approximately 9,000 claims filed and as the records of the treasury were inadequate, involved and in some cases had been falsified, it is easy to imagine the amount of work involved. A *resumé* of the

work just finished by the Dominican Claims Commission of 1917 is given below:

Total number of claims filed-----	9029	
Total amount of claims filed-----		\$14, 622, 644. 05
Claims definitely disposed of:		
Awards-----	6049	3, 809, 757. 91
Rejected-----	2502	5, 173, 448. 68
Annulled-----	45	199, 712. 64
Without the jurisdiction of the Com- mission-----	86	401, 959. 12
	8682	\$9, 584, 878. 35
Rejected items of adjusted claims-----		1, 289, 260. 07
Deducted items of adjusted claims-----		1, 534, 006. 53
		<hr/> \$12, 408, 144. 95
The total amount of the awards has been liquidated as follows:		
Bonds issued-----		\$3, 554, 200. 00
Cash paid in lieu of bonds of Series "L" \$50. denomination-----		129, 800. 00
Cash paid in settlement of fractional amounts of less than \$50-----		125, 757. 91
		<hr/> \$3, 809, 757. 91

The payments on the bonded indebtedness of the republic have been regularly made and in such amounts that it is now evident that the \$20,000,000. Customs Administration Loan made in 1908 will be paid off by 1925 instead of 1958, i.e., 33 years before due. The \$4,000,000. bond issue of 1918 will be paid off by December 31, 1922, instead of its due date 1938, i.e., 16 years before due. This progress has been assisted materially by the assistance and encouragement given to commerce by the Government. As a means to improve the condition of Dominican products exported, the export duty has been conditionally removed when the products are properly prepared and packed for shipment while a standard labelling has been adopted for the important product, cacao, and the improvement in its condition has received favorable comment in the New York market. Every effort has been made to improve transportation facilities for the commerce both ocean and inland, with considerable success.

The careful conserving of the public funds has permitted many millions to be assigned from the surplus for appropriation for the building of roads, schools, public buildings, and port improvements. Every effort is being bent to the prompt completion of the roads which will open much needed communication between all parts of the republic and permit of the development of the interior.

This program must go ahead and arrangements are being perfected to secure the necessary funds for its prompt prosecution.

The properties of the State are gradually being placed in good condition and warehouse facilities at all ports have been and are being gradually increased.

The regulation of weights and measures so necessary to honest business, especially in the small retail establishments dealing with the poor people is about to be undertaken. A trial Food Control store at Santo Domingo City has been successful and additional stores will be established elsewhere. This store not only sells to the poor at very reasonable prices but more important still effectually acts as a check on profiteering by the regular retailers.

5. It has greatly advanced the education of the young people and is following comprehensive plans for providing schools and teachers so that every child of school age in the country shall have instruction. There are 200,000 of these children; 130,000 have now been supplied with schools and each year we expect to provide new schools and additional teachers until all the children of school age are under instruction. Then the intermediate grades between the primary schools and the University will be supplied in as many places as they may be needed.

At present those grades which constitute secondary education, are provided for by means of two large official high schools of the composite type, and about six private secondary schools.

Along with the high schools, provision has been made for normal training for prospective teachers, and as a result the Military Government has been able to supply the recently established primary schools with trained teachers.

Vocational instruction is offered in both primary and secondary schools.

Special schools for professional training have been established with success in the leading towns, but only the girls have been taken care of in this kind of schools, as it has not been possible to equip them with the expensive apparatus required for manual training schools for boys. However, something has been done in the way of providing special manual training facilities for boys in the two Correctional Schools now in operation, in which children desiring to follow the special professional courses are admitted even if not belonging to the school as inmates. There are five private commercial schools, two of which receive economical aid from the Military Government.

As soon as funds are available special art and craft schools for boys will be established in the leading towns of the country. It is also expected that wherever a school building is erected provision

will be made in it for manual training so as to make this aspect of education really universal.

A college of Agriculture is being organized in connection with the Agricultural Experiment Station in Haina, near the city of Santo Domingo. Instructions in agriculture is furnished in all the rural schools of the country; in these rural schools agricultural gardens are being formed for practical teaching.

The University has been completely reorganized. Laboratories are being provided, and a good library is under formation.

Eighteen modern school buildings, costing approximately \$800,000 are either under construction or are included in the building program for 1920, while it is the ambition of the Government to expend \$1,000,000 in 1921 for similar purposes.

The total enrollment of pupils in the republic in 1917 amounted to about 12,000, while in 1920 it amounts to approximately 110,000.

It is most vital to the future good government of the country that the people should be taught to understand their civil duties and the value and power of the vote, to fulfill these duties in a patriotic manner.

At present the percentage of illiteracy is very large and it will take some years to educate the mass of the people up to the point of understanding their proper ideals and to carry them into effect through the vote.

6. It has provided for the construction of trunk highways connecting the north and south sides of the republic, and also the eastern and western portions. These projects are being rapidly carried to completion, the north and south highways being about 70% complete and about 62 kms. of the east and west highways are completed. Other portions of the east and west highways are in various stages of completion, over 70% of these highways now being passable by automobile.

The value of these trunk highways to the country will be considerable, as they will provide for the opening up of country for settlement and bring the separate portions of the country together, and will facilitate the transaction of business between the various parts of the republic.

It is dredging and greatly improving the harbors of the republic and providing better facilities for commerce, as well as providing improved regulations governing commerce.

It has improved the Post Office System, reducing greatly the time required for transmission of mail, as well as providing for the safe delivery of same. Arrangements are practically completed for the installation of a money order system between 18 offices in various parts of the republic and a 24 hour telephone service has been established at all telephone stations.

The Custom Houses have been improved in the various ports and a new one constructed in Santo Domingo City and in Puerto Plata.

The Government owned railroad has been repaired, new equipment purchased, and freight is now handled expeditiously.

A Geologic reconnaissance survey has been made of the Republic and a topographical survey is well under way.

Various buildings in the Republic have been remodelled and repaired, making them suitable for the use of the Government.

A law has been promulgated for the conservation and distribution of water in arid and semi-arid regions, and also a modern mining law is now in force.

7. It has enormously developed agriculture through the distribution of modern agricultural machinery and personal instruction by agricultural instructors throughout the Republic. Arrangements are practically completed for the opening of an Agricultural College to educate Dominicans for positions in charge of agricultural projects. The buildings are practically completed.

Pure bred stock has been imported to raise the quality of stock in the republic.

The immigration system has been placed on working basis and accurate records are now available containing complete information in reference to each immigrant.

A meteorological service has been established and rainfall data obtained from about 55 different points in the republic.

8. It has developed a General Land Law which will restore order out of chaos in the matter of the registration of land and the fixing of land titles. At present the mass of property holders, including the Government, do not know what property, if any, they really own; the original grants had been greatly involved, inheritance has further involved this, titles have been lost or destroyed by accident, fraudulent titles in great quantity have been manufactured, and it will require the new land courts at least five years to put this essential matter upon a sure basis.

9. Replying to the question, "What fundamental things are necessary for the completion of the work of the present occupation before the Military Government could be terminated?"

- (a) To complete and perfect the projects above-outlined.
- (b) To promulgate certain basic laws essential to a peaceful transfer of authority from the Military Government to a government by the people.
- (c) To study and substitute for the present Napoleonic Code, the United States Code of Laws, as has been done in Porto Rico.
- (d) To fix by arbitration the boundary line between Santo Domingo and Haiti.

THOMAS SNOWDEN

839.00/2248a

The Secretary of State to the Diplomatic Officers in Latin America

WASHINGTON, October 2, 1920.

GENTLEMEN: There is enclosed herein a copy of a statement prepared by the Department from official reports of the Military Government of Santo Domingo designed to call attention to some of the creditable achievements of the United States Occupation of that country.⁵

In view of the propaganda that has recently been carried on in many of the countries of Latin America by means of distortion of facts designed to discredit the Military Government, the Department considers it desirable that as wide publicity as possible be given to the statement referred to. In so doing the Department merely desires to have credit given where it is due for what has been accomplished. You will, therefore, have a proper translation made of the enclosure and endeavor to have it published in the leading periodicals in the country to which you are accredited, but in some form that will not make it seem to be merely official propaganda.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

839.51/2132

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, October 14, 1920.

SIR: I have the honor to acknowledge the receipt of your letter of September 9, 1920, (16870-315:8),⁶ transmitting a request from the Military Governor of Santo Domingo, in which, with the approval of the Navy Department, he asks that certain instructions be issued to the General Receiver of Dominican Customs, through the Department of State, and the Bureau of Insular Affairs of the War Department, these instructions to be binding upon the General Receiver until all of the bonds of the "Dominican Republic 5% Bond Issue 1918" have been redeemed and paid.

The instructions requested are:

1. That the General Receiver "to carry out the provisions of Executive Order No. 193, issued by the Military Government" shall deduct monthly from the customs receipts of the Dominican Republic, an amount sufficient to equal the annual sum of \$208,060, being one-

⁵ Enclosure not printed; see report of the Military Governor printed as a subenclosure, *supra*.

⁶ Not printed.

twentieth of the bond issue in question, to cover the amortization provided for in that order and shall deposit the sum with a designated depository provided for in that order: and

2. That the General Receiver shall make monthly segregations "as required by the terms of Executive Order 272" of the proportional amounts representing 60 per cent of the one-half of the surplus above three million dollars of customs revenues pledged by said order, and shall deposit such amounts with the depository designated in that order.

In reply I regret to be obliged to inform you that, in its opinion, and for the reasons hereinafter indicated, the Department of State would not be justified in complying with the request transmitted in your letter. However, it would seem that the Military Governor might arrange for the amortization of the bond issue in question by application of the funds directed in Article 1 of the Convention of 1907 between the United States and the Dominican Republic,⁷ "to be paid to the Dominican Government" after the payments specifically required by that Article have been made.

The Executive Order 193,⁸ referred to in the requested instructions, purports to have been issued in this city August 2, 1918, "by authority of the Government of the United States", and authorizes the issuance of bonds of the Dominican Republic to pay awards made by the Dominican Claims Commission of 1917. This Order sets forth (Article 8) that "there is hereby pledged, with the consent of the Government of the United States; from the customs revenues of the Dominican Republic, such amounts as may be required for the payment of the stated interest of said bonds; and, to the amortization fund for the redemption and payment of said bonds on the redemption dates hereinbefore provided, the further sum per annum, to be deposited in equal monthly installments, beginning January 1, 1918, or an amount equal to one-twentieth of the total amount of the bond issue." This Article of the Order further sets forth that "the sums pledged in this paragraph shall constitute an additional charge upon all customs revenues of the Republic collected in accordance with the Convention of February 8, 1917 [1907], between the United States of America and the Dominican Republic, after their application to the first four objects designated in Article One of that Convention and before payment is made to the Dominican Government."

Article 9 of this Order provides that the General Receiver of Dominican Customs is authorized to make monthly deductions from the customs receipts to cover the amounts referred to in Article 8, and that "such monthly deductions and deposits shall be regularly

⁷ *Foreign Relations*, 1907, pt. 1, p. 307.

⁸ *Ibid.*, 1918, p. 377.

continued by the General Receiver of Dominican Customs until all the bonds herein provided for shall have been redeemed and paid."

The Executive Order, No. 272,⁸ referred to in the requested instructions, purports to have been issued on March 13, 1919, and refers to the said provisions of Executive Order 193. It assumes to charge the customs receipts of the Dominican Republic, in addition to the amount previously charged against them by Section 8 of Order 193, with a sum equal to 60 per cent of half of the excess over and above three million dollars of import and export duties collected by the General Receiver "in any year which would otherwise be collected by the Dominican Government", and provides that these additional sums shall be invested in the purchase and retirement from circulation, in the manner thereafter provided, of Dominican bonds dated January 1, 1918. It further authorizes the General Receiver to set aside monthly the proportional sums of the excess in question to be deposited with a trustee designated by the Dominican Government.

In the first place it may be observed with reference to the above mentioned statement as to the issuance of Executive Order 193 "by authority of the Government of the United States" that no reason is perceived why the Government of the United States should authorize the issuance of an Executive Order by the Military Governor of Santo Domingo. In this connection it may be said that it is the understanding of this Department that the Military Government in force in the Dominican Republic should be regarded as administering affairs for the Government of that Republic.

It may be further observed with reference to the Orders in question, that, as indicated by the above references thereto, they apparently attempt to alter the treaty arrangement between the United States and the Dominican Republic as to the disposition of the collections made by the General Receiver. Article 1 of the Convention of 1907 between the two Governments, "providing for the assistance of the United States in the collection and application of the customs revenues of the Dominican Republic" provides that the President of the United States shall appoint a General Receiver of Dominican Customs, who shall collect all the customs duties "until the payment or retirement of any or all bonds issued by the Dominican Government in accordance with the plan and under the limitations as to terms and amounts hereinbefore recited", and that the General Receiver shall apply the sum so collected as follows: "first, to paying the expenses of the receivership; second, to the payment of interest upon said bonds; third, to the payment of the annual sums provided for amortization of said bonds including

⁸ *Foreign Relations*, 1919, vol. II, p. 148.

interest on all bonds held in sinking fund; fourth, to the purchase and cancellation, or the retirement and cancellation, pursuant to the terms thereof, of any of said bonds as may be directed by the Dominican Government; fifth, the remainder to be paid to the Dominican Government”.

The bonds referred to in said Article 1 of the Convention of 1907 are set forth therein as being an issue of twenty million dollars, payable in fifty years, and it is understood by this Department that bonds bearing date of January 1, 1918, were issued according to the plan of the Convention.

In connection with the foregoing it may be said that of course the Military Government of Santo Domingo could not of itself alter the said provisions of the Convention, and, furthermore, the Executive branch of the Government of the United States apparently could not alone enter into such an arrangement for such alteration. It is, therefore, believed that the apparent attempt of the Dominican Republic to insert an additional object in the treaty for the application of customs revenues is not internationally binding, and that the Government of the United States, therefore, has no duty to see to it that customs revenues are applied for that object.

In relation to the foregoing it may be observed that under said Article 1 of the Convention of 1907, the collection of customs by a Receiver appointed by the President of the United States is apparently to be continued only until the payment or retirement of the bonds referred to in that Convention, which, according to the terms thereof, are redeemable after ten years. It is conceivable, therefore, that all such bonds might be paid or retired prior to the time when all of the 1918 bonds have been redeemed and paid. Should such an event occur, all responsibility upon the United States under the Convention would cease and terminate.

Finally, it is believed that the Government of the United States is without responsibility for the payment and retirement of the 1918 bonds. This bond issue is not contemplated in any Convention between the United States and the Dominican Republic, and the General Receiver of Dominican Customs is given no authority by treaty over funds to be collected for the payment of these bonds. Therefore, the Department of State seems to be entirely lacking in authority to issue instructions to the General Receiver regarding this matter, which would seem to be one to be dealt with wholly by the Government of the Dominican Republic.

I have [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

889.00/2479a

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, November 27, 1920.

MY DEAR MR. SECRETARY: The increasing agitation among the Dominicans during the last two years for the right of self-government, and the anxiety expressed by the governments of other American republics as to our intentions in Santo Domingo, have caused the Department of State to give very thoughtful consideration to the question of whether the United States might not now well take the first steps in returning to the Dominicans the Government of their Republic.

Provision can and should, of course, be made before the Government of their Republic is turned back to the Dominicans whereby the obligations assumed by the United States under the Convention of 1907 are safeguarded, and whereby this Government retains for a term of years the essential measure of control over the Dominican finances, as well as over the native constabulary. The question therefore arises whether, in view of the assurances contained in the Proclamation of Occupation issued by Admiral Knapp on November 29, 1916,⁸ the internal condition of the country is such that we would not be justified in taking steps to give back to the Dominican people the right of self-government. After a very careful review of the situation, this Department reached the conclusion that by reason of the tranquillity now existing in the Dominican Republic, the people of Santo Domingo may now be entrusted with at least partial control of their Government and that this Government would be justified in taking the first steps to turn back to the Dominican people the Government which we have held for them as trustees for four years.

When this Department reached this decision I submitted the question to the consideration of the President in a letter dated November 13,⁹ stating at the same time that in my opinion it must be assumed that we would make our final withdrawal conditioned upon the substantial accomplishment of the main objects that we had in mind in undertaking the direction of Dominican affairs, and that we could hardly justify, even to the Dominicans, the abrupt and irresponsible cessation of our control, which in its larger aspects has undoubtedly been beneficial to the Dominican Republic. It is evident that the time which the process of withdrawal will entail is difficult to estimate.

⁸ Proclamation quoted in full in letter of Nov. 29, from the Secretary of the Navy, *infra*.

⁹ Not printed.

With my letter to the President, above referred to, I transmitted a memorandum upon our position in Santo Domingo in which was contained the recommendation that the following steps should be taken immediately with the understanding that they would mark the first of the stages necessary in the reestablishment of local self-government in Santo Domingo:

1. The announcement by Proclamation by the Military Governor that the Government of the United States intends now to begin to return to the Dominican people the government of their country.

2. The appointment by the Military Governor of a Commission of Dominicans to which shall be attached an American Technical Advisor. This Commission will be entrusted with the general revision of the laws of the Republic, in particular the drafting of a new Election Law and the formulation of such amendments to the Constitution as may be deemed necessary. In order that the Dominican people may not feel that this Commission is composed of Dominicans who do not represent public opinion, it is suggested that the Commission to be appointed by the Military Governor be composed of the eleven members of the Dominican Senate elected by popular suffrage in 1914. Their term of office has not yet expired.

3. All suggested amendments to the Constitution and the initial revision of the laws after acceptance by the Dominican Commission to be submitted to the approval of the Military Governor. After this fair start is achieved, it is hoped that there will be no occasion to restrict further the free exercise by the Dominican people of the Legislative power.

In reply to my letter of November 13, I received a letter from the President dated November 15, a copy of which I am sending you herewith,¹⁰ in which the President stated that he agreed that the steps suggested should now be taken looking towards a gradual withdrawal of our interference with the self-government of Santo Domingo, and instructing me to make the necessary announcements and prepare the necessary methods for the fulfillment of our assurances.

In accordance with the President's direction, I have had prepared and am sending you herewith the draft of a Proclamation to be issued by the Military Governor at an early date.¹¹ You will note that the issuance of this Proclamation will mark the first of the suggested steps approved by the President. If you see no objection, I should be glad if you would direct the Military Governor to issue the Proclamation proposed as soon as possible. I believe that it is important that the Commission which is suggested should be composed of the members of the Dominican Senate elected in 1914, in order that the Dominican people may feel that the citizens appointed by the Military Governor to form this Commission are truly repre-

¹⁰ Not printed.

¹¹ Copy of enclosure not found in Department files.

sentative and not selected merely by the Military Governor to carry out the proposals which he desires to make.

I assume that the officials in your Department directly concerned with the conduct of Dominican affairs will be pleased to cooperate with this Department, and to give us the benefit of their advice and recommendations in the carrying out of this policy of gradual withdrawal from control of the Government of Santo Domingo.

The announcement of our policy will, I feel certain, have a most beneficial effect upon our relations with all the Latin American Republics, and will do much to dispel the misunderstandings and suspicions which have been largely occasioned by the unexpectedly protracted period of our occupation of the Dominican Republic.

Believe me [etc.]

BAINBRIDGE COLBY

839.51/2150

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, November 29, 1920.

SIR: Referring to your letter of 14 October 1920, (So 839.51/2132), relative to the relations between the Government of the United States and the Dominican Republic, and referring especially to the following statement contained therein:—

“In this connection it may be said that it is the understanding of this Department that the Military Government in force in the Dominican Republic should be regarded as administering affairs for the Government of that Republic.”

I have the honor to invite consideration to the serious situation that develops in regard to the Dominican Government as now administered in case the attitude of the State Department, as expressed in the letter, be continued. In a letter from the Department of State under date of 31 July 1918,¹² the Department expressed a similar thought in regard to the administration of Dominican affairs by the Military Governor in the Dominican Republic. It was assumed by the Navy Department that the statement in the letter of 31 July 1918, was one of general application, which had in view the thought that the Military Government instituted by the United States, was administering the Dominican Government for the Dominican people in the absence of the usual duly chosen Dominican officials. The Department of State's letter of 14 October 1920, however, appears to indicate that the present military government in the Dominican Republic is being carried on by virtue of authority derived from the people of the Dominican Republic, acting in their sovereign capacity. This Department has

¹² Not printed.

not been of that opinion and does not consider that the military government is so functioning. In support of this opinion, there is quoted in its entirety the analysis of the situation submitted to me at my request by the Judge Advocate General of the Navy:—

“ [1.] The existing occupation of Santo Domingo (the titular national designation of which is The Dominican Republic) by armed forces of the United States, and the military government incident to and necessitated by such military occupation, were instituted in pursuance of a proclamation issued, published, proclaimed, and officially gazetted at Santo Domingo City, D. R., under date of November 29, 1916, by Captain H. S. Knapp, U. S. Navy, Commander, Cruiser Force, United States Atlantic Fleet.

[2.] On account of its importance in relation to the ensuing discussion the proclamation is quoted in full immediately herebelow:

PROCLAMATION

Official Gazette No. 2758

Whereas: A treaty was concluded between the United States of America and the Republic of Santo Domingo on February 8, 1907, Article III of which reads:

‘ Until the Dominican Republic has paid the whole amount of the bonds of the debt its public debt shall not be increased except by previous agreement between the Dominican Government and the United States. A like agreement shall be necessary to modify the import duties, it being an indispensable condition for the modification of such duties that the Dominican Executive demonstrate and that the President of the United States recognize that, on the basis of exportations and importations to the like amount and the like character during [the] two years preceding that in which it is desired to make such modification, the total net customs receipts would at such altered rates of duties have been for each of such two years in excess of the sum of \$2,000,000 United States gold;’ and,

Whereas: The Government of Santo Domingo has violated the said Article III on more than one occasion; and,

Whereas: The Government of Santo Domingo has from time to time explained such violation by the necessity of incurring expense incident to the repression of revolution; and,

Whereas: The United States Government, with great forbearance and with a friendly desire to enable Santo Domingo to maintain domestic tranquillity and observe the terms of the aforesaid Treaty, has urged upon the Government of Santo Domingo certain necessary measures which that Government has been unwilling or unable to adopt; and,

Whereas: In consequence domestic tranquillity has been disturbed and is not now established, nor is the future observance of the Treaty by the Government of Santo Domingo assured; and,

Whereas: The Government of the United States is determined that the time has come to take measures to insure the observance of the provisions of the aforesaid Treaty by the Republic of Santo Domingo and to maintain the domestic tranquillity in the said Republic of Santo Domingo necessary thereto:—

Now, therefore, I, H. S. Knapp, Captain, United States Navy, commanding the Cruiser Force of the United States Atlantic Fleet, and the armed forces of the United States stationed in various places within the territory of the Republic of Santo Domingo, acting under the authority and by direction of the Government of the United States, declare and announce to all concerned that the Republic of Santo Domingo is hereby placed in a state of Military Occupation by the forces under my command, and is made subject to Military Government and to the exercise of military law applicable to such occupation.

This Military Occupation is undertaken with no immediate or ulterior object of destroying the sovereignty of the Republic of Santo Domingo, but, on the

contrary, is designed to give aid to that country in returning to a condition of internal order that will enable it to observe the terms of the Treaty aforesaid, and the obligations resting upon it as one of the family of nations.

Dominican statutes, therefore, will continue in effect in so far as they do not conflict with the objects of the Occupation or necessary regulations established thereunder, and their lawful administration will continue in the hands of such duly authorized Dominican officials as may be necessary, all under the oversight and control of the United States Forces exercising Military Government.

The ordinary administration of justice, both in civil and criminal matters, through the regularly constituted Dominican courts will not be interfered with by the Military Government herein established: but cases to which a member of the United States forces in Occupation is a party, or in which are involved contempt or defiance of the authority of the Military Government, will be tried by tribunals set up by the Military Government.

All revenue accruing to the Dominican Government, including revenues hitherto accrued and unpaid,—whether from custom duties under the terms of the Treaty concluded on February 8, 1907, the Receivership established by which remains in effect, or from internal revenue—shall be paid to the Military Government herein established which will, in trust for the Republic of Santo Domingo, hold such revenue and will make all the proper legal disbursements therefrom necessary for the administration of the Dominican Government, and for the purposes of the Occupation.

I call upon the citizens of, and residents and sojourners in Santo Domingo, to cooperate with the Forces of the United States in Occupation to the end that the purposes thereof may promptly be attained, and that the country may be restored to domestic order and tranquillity, and to the prosperity that can be attained only under such conditions.

The Forces of the United States in Occupation will act in accordance with military law governing their conduct, with due respect for the personal and property rights of citizens of, and residents and sojourners in Santo Domingo, upholding Dominican laws in so far as they do not conflict with the purposes for which the Occupation is undertaken.

H. S. KNAPP,
Captain, U.S. Navy,
Commander, Cruiser "Force",
United States Atlantic Fleet

U.S.S. "OLYMPIA", Flagship.
 SANTO DOMINGO CITY, D.R.,
November 29, 1916.

3. The files of this Department show definitely and conclusively that this proclamation was formulated and prepared by and at the instance of the Department of State, Captain Knapp collaborating in his capacity of the military commander destined to assume the duty of executing its provisions; that it was approved by the Department of State and, after certain amendments in the original draft suggested by himself, approved and directed to be issued by the President; that it was delivered to Captain Knapp in the city of Washington and by him taken to Santo Domingo.

4. It would seem to be well established that the proclamation and the consequent military occupation and military government of Santo Domingo by the forces under the command of Captain Knapp and his successors in chief command were, and have continued to be, by authority of the Government of the United States. Otherwise, there could be no warrant or justification for this proclamation, military occupation, and military government, which acts, by their very nature, could have no other ground than [*than*] the 'authority of the Government of the United States' to stand upon.

Also it follows logically and irresistibly, I think, that the official acts and orders of the Military Governor, or Military Com-

mander, in the execution of the duties of his high office, are initially and, unless they be specifically disapproved or repudiated by our Government, are definitively, 'by authority of the Government of the United States.'

5. It does not appear that either of the Executive Orders of the Military Governor of Santo Domingo in question, No. 193, dated August 2, 1918,¹³ and No. 272, dated March 13, 1919,¹⁴ have been so specifically disapproved or repudiated. On the contrary, both were duly formulated and promulgated and officially gazetted in the regular and customary manner; both have been printed in the official 'Collection of Executive Orders, Dominican Republic,' the former on page 353, volume of 1918, and the latter on page 438, volume of 1919; and both have been, at least theoretically, approvedly in force since their promulgation.

6. Furthermore, it is beyond question that Executive Order No. 193, of which it is said on page 2 of the State Department's letter attached hereto¹⁵ that it 'purports to have been issued in this city (Washington) August 2, 1918, "by authority of the Government of the United States,"' was, as a matter of fact, so issued and by that authority. Rear Admiral Knapp, Military Governor of Santo Domingo by competent appointment and commission, was in his proper person present in Washington on that date and for some days prior thereto on duty in connection with the administration of the Military Government under his charge, in constant consultation with the Department of State, the political department of the Government entrusted with foreign affairs. His contemplated action in relation to the matter of the executive order under consideration was the subject of conference with the Department of State, and his final action, the promulgation of the said executive order, was, without any doubt whatsoever, with the approval of that Department which, in such matters, embodies the 'authority of the Government of the United States.' Under the circumstances there was not, nor could have been, any assumption of unwarranted authority on the part of the Military Governor. He was the mouthpiece of the Government of the United States speaking only by authority of the Government.

7. The fact that the Military Governor of Santo Domingo, Rear Admiral Knapp, was absent from the titular seat of his Government when he issued Executive Order No. 193 does not in any manner or degree vitiate or invalidate that order. There is abundant precedent and practice to dispel any doubt on that point should such doubt arise in the mind of any one concerned. It is no secret that Rear Admiral Knapp was actually legally advised on this point in this particular instance.

8. When the military occupation of Santo Domingo was proclaimed and the consequent military government came into force all the functions of government were taken over and lodged in the military government for administration under the orders of the military governor. Ordinarily such assumption of the functions of government in a foreign state is regarded as an act of war. This matter, however, has not been presented to this office for considera-

¹³ *Foreign Relations*, 1918, p. 377.

¹⁴ *Ibid.*, 1919, vol. II, p. 148.

¹⁵ Department's letter of Oct. 14, p. 132.

tion and is, therefore, not dwelt upon herein. Suffice it to say that the Military Government of Santo Domingo, set up 'by authority and direction of the Government of the United States,' was established in fact.

9. Without entering into the history of the occupation or attempting the recital of details relating to the efforts of the Military Governor to have Dominican officials continue to assist in the governmental administration of the Dominican Republic, it may be said that, from the beginning of the occupation the military government has been *the* Government of the Dominican Republic. There has been no other government of the Republic since the date of the occupation.

10. But it is manifest that in all of this the Military Government has functioned, and continues to function, not as an independent, self-created agency with arbitrary, unlimited powers, but as the active agent of the Government of the United States engaged in the administration of Dominican affairs both foreign and domestic. The Military Government, actually operating through the official persons of members of the armed forces (Navy and Marine Corps) of the United States, possesses no power or authority not reviewable by the Government of the United States personified by the President, who, himself, customarily speaks concerning such matters through the medium of the Department of State. Thus, as shown hereinbefore, the proclamation of occupation dated November 29, 1916, was, before its promulgation, visaed by the Department of State and specifically approved by the President; and was issued by his order. Also, the Military Governor's Executive Order No. 193, of August 2, 1918, was sanctioned by the State Department, as for the President, before its issuance.

11. The burden of the arguments advanced in the letter from the State Department herewith seems directed towards the assumption of the position that the Government of the United States has no (further) responsibility in the matter of requiring that the provisions of Executive Order No. 193 be carried out, but that the Government of the Dominican Republic (which the Department of State avers is the Military Government) has that responsibility inherently. This position might be considered as well taken if it were established that the Military Government is functioning as a sovereign independent entity regardless of the actual overlordship of the Government of the United States. Under such conditions—which I do not admit as existing—the Military Government, operating under the laws of war, which are the basic laws governing true military government, could doubtless impress its will, by force if necessary, upon the General Receiver of Customs. As mentioned heretofore, however, the Military Government, in the existing circumstances of military occupation, has no such independent authority. Anticipated action was provided for in the express terms of Executive Order No. 193 wherein 'the consent of the Government of the United States' is recorded as a granted necessary condition, this consent having been obtained by the Military Governor, Rear Admiral Knapp, prior to the issuance of the order.

12. For the Government of the United States, in the person of the Department of State to decline now to require the fulfillment

of the terms of that order by the General Receiver of Customs, himself an appointee of the Government, would be to introduce most serious complications involving among other things a charge of bad faith, and to throw the Military Government back upon the necessity of exercising powers which properly it does not possess, in order to maintain unimpaired the good name and good faith of the United States of America.

13. On pages 7 and 8 of the State Department's letter under consideration the following conclusion is set forth:

'Finally, it is believed that the Government of the United States is without responsibility for the payment and retirement of the 1918 bonds. This bond issue is not contemplated in any Convention between the United States and the Dominican Republic, and the General Receiver of Dominican Customs is given no authority by treaty over funds to be collected for the payment of these bonds. Therefore, the Department of State seems to be entirely lacking in authority to issue instructions to the General Receiver regarding this matter, which would seem to be one to be dealt with wholly by the Government of the Dominican Republic.'

14. As to the views expressed in this conclusion I would say that I am unable to concur in the belief recorded in the first sentence thereof.

If the Government of the United States, which exercises a paramount oversight of the whole situation involving the presence of its armed forces in Santo Domingo, is without responsibility for the payment and retirement of the 1918 bonds, then it is perfectly proper and pertinent, indeed it is compelling, to inquire upon whom, or upon what agency, does the exigent responsibility rest.

True, the Government of the United States has no responsibility in this matter *under the Treaty of 1907*; and, as is well said in the next succeeding sentence of the quoted paragraph, 'This bond issue is not contemplated in any Convention between the United States and the Dominican Republic, and the General Receiver of Dominican Customs is given no authority by treaty over funds to be collected for the payment of these bonds.' But I do not understand that elsewhere than in this paragraph is there any claim or intimation that the 1918 bond issue is in any way whatever contingent upon the provisions of the Treaty of 1907. Decidedly otherwise, the 1918 bond issue was authorized by the Government of the United States in its approval of Executive Order No. 193, issued by its agent, the Head of the Military Government, quite without reference to any treaty. Furthermore, the Receivership has been definitely confirmed and continued, for the prosecution of its duties during the indefinite period of occupation, by the provisions of the twelfth paragraph of the Proclamation of Occupation. Reference to the treaty of 1907 in this connection seems scarcely even apposite.

Nevertheless, the obligation and responsibility of the Government of the United States in relation to the faithful performance of the terms of this order and the complete maintenance of the integrity of the bond issue are, it would appear, hardly susceptible of question.

15. As to the functions and prerogatives of the General Receiver, these attributes extend beyond the limits described in the treaty. While he 'is given no authority by treaty over funds to be collected for the payment of these bonds,' he is, very specifically given such authority under the provisions of paragraph 9 of Executive Order

No. 193, 'Issued at Washington, D.C., U.S.A., by authority of the Government of the United States, 2 August, 1918.' That paragraph reads as follows:

'9. The General Receiver of [Dominican] Customs is hereby authorized to make monthly deductions, commencing January 1, 1918, from the customs receipts of the Dominican Republic, to cover the amounts referred to in the preceding paragraph, and in accordance with the official advice thereof furnished him by the Contaduría General de Hacienda, and immediately to deposit said amount[s] with the Designated Depositary for the Dominican Government in a special account entitled "Dominican Republic 5 per cent bond issue 1918;" and such monthly deductions and deposits shall be regularly continued by the General Receiver of Dominican Customs until all of the bonds herein provided for shall have been redeemed and paid.'

Who, other than the Government of the United States, shall require the General Receiver to exercise this specifically conferred authority?

16. In the concluding sentence of its letter the State Department expressly disclaims the right to require the exercise of authority by the General Receiver of Customs and implies that the Government of the Dominican Republic should take the requisite action in the matter.

As an immediate consequence of such conclusion there arises the question, 'What is the actual status of the Dominican Republic?'

In reply to this question I would present my opinion that—

(a) The Dominican Republic may be described as not altogether extinguished but temporarily suppressed and, for the time being, in a state of suspended animation.

(b) There is no existing Government of the Dominican Republic in the ordinary acceptation of the words, i.e., a government of the Dominicans, by the Dominicans, for Dominicans, actually functioning.

(c) The governmental attributes of the Dominican Republic are, for the present, merged or submerged in the Military Government of Santo Domingo, an agency of the Government of the United States, deriving its powers therefrom and functioning solely 'by authority of the Government of the United States.'

(d) Under existing circumstances, therefore, in all that relates to the administration of the national governmental affairs of the Dominican Republic, the Government of the United States and the Government of the Dominican Republic are in fact synonymous.

17. With particular reference to the specific inquiry in the first endorsement hereon it is my conclusion, to which I have led up at some length, that the Military Government by armed forces of the United States in the Dominican Republic should not be regarded as 'administering affairs for the Government of that Republic' by virtue of any authority derived from the sovereign people of Santo Domingo, but as administering the affairs of the Government of that Republic for, on account of, and by authority of, the Government of the United States whose agent it, the Military Government, is; the Government of the United States having taken over in their entirety the Governmental functions of Santo Domingo, the Dominican Republic."

Sincerely yours,

JOSEPHUS M. DANIELS

839.00/2270a : Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 4, 1920—2 p.m.

42. The Department has decided that the proper time has come to take certain steps preliminary to a change in our present position *vis-a-vis* the Dominican Republic.¹⁵ To that end the Secretary of the Navy is instructing the Military Governor by mail to publish the following proclamation: ¹⁶

"Whereas, the friendly purposes of the United States in the employment, pursuant to rights derived from the Treaty of 1907, of its military forces within the Dominican Republic for the restoration of public order and the protection of life and property have been substantially achieved, and,

Whereas, it has always been the desire and intention of the Government of the United States to withdraw its aid as soon as it could do so consistently with the said purposes and as soon as the improved conditions in Santo Domingo to which the United States has sought to contribute gave promise of permanence,

Now, therefore, I, Thomas Snowden, Rear-Admiral, U.S.N., Military Governor of the Dominican Republic, acting under the authority and by direction of the Government of the United States, declare and announce to all concerned that the Government of the United States believes the time has arrived when it may, with a due sense of its responsibility to the people of the Dominican Republic, inaugurate the simple processes of its rapid withdrawal from the responsibilities assumed in connection with Dominican affairs.

Announcement is therefore made that a Commission of representative Dominican citizens will be appointed, the personnel of which will shortly be announced, to which it is my purpose to attach a Technical Adviser. This Commission will be entrusted with the formulation of amendments to the Constitution and a general revision of the laws of the Republic, including the drafting of a new Election Law. Such amendments to the Constitution and such laws, or such revision of existing laws, as may be recommended by the Commission, upon approval by the military Government in occupation, will be submitted to a Constitutional Convention and to the National Congress [of the Dominican Republic] respectively."

¹⁵ In a letter to Horace G. Knowles of New York City, dated Feb. 7, 1921, the Acting Secretary of State made the following statement: "Prior to the adoption by this Government of its policy regarding the steps to be taken preliminary to the withdrawal of the United States from its responsibilities in the Dominican Republic, published by the Military Governor in his Proclamation of December 23, 1920, repeated conferences were held at the Department of State with Señor Henriquez y Carvajal. The entire proposed program was frankly discussed with him at these conferences. His opinion was sought and he was found to be in accord with the policy projected." (File no. 839.00/2326.)

¹⁶ Published Dec. 23, 1920, with the addition of the four bracketed words in the last sentence (file no. 839.00/2355).

A more detailed mail instruction goes forward to you by today's mail.¹⁷

Davis

839.00/2270a suppl. : Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 11, 1920—1 p.m.

43. Department's December 4, 2 p.m.

In the communications addressed by the Department to the Secretary of the Navy for the instruction of the Military Governor,¹⁷ it was suggested that the Commission of Dominican citizens to be appointed referred to in the Proclamation, be composed of the members of the former Senate. In order that no misunderstanding may arise, the Department desires it understood that it is not insistent that this suggestion be complied with and that it realizes that the members of the Senate, while in a sense representative of public opinion in Santo Domingo, may not have the necessary qualifications to become members of the Commission.

While no decision has yet been reached, the Department believes that the Commission might well be composed of nine members and that Monseigneur Nouel, Dr. Francisco Peynado, Jacinto de Castro and Federico Velasquez might well be appointed members of it. It is further believed that two Senators in addition to Jacinto de Castro might be appointed with different political affiliations. The Department will be glad to receive your recommendations by cable as to the additional members to be appointed as well as any suggestions which you may desire to make regarding the constitution of the Commission. The Department would likewise be glad of any recommendation which you may care to make in connection with the appointment of the Technical Adviser to the Commission.

It is desired that you keep the Department closely informed of all developments in connection with the issuance of the Proclamation, in particular reporting fully upon the effect on public opinion caused by the Proclamation and any press comments thereon of importance.

DAVIS

¹⁷ Not printed.

839.00/2276a

The Acting Secretary of State to the Secretary of the Navy
(Daniels)

WASHINGTON, December 13, 1920.

SIR: I have the honor to refer to the communication addressed to you by the Secretary of State on November 27,¹⁸ last, enclosing a copy of a letter addressed to him by the President dated November 15, in which the President instructed the Secretary of State to make the necessary announcement and prepare the method of fulfilling our assurances to the Dominican people that the Government of the United States was prepared to take at once the first steps towards returning to them the governmental control which has been exercised by the United States since 1916, and to your reply dated November 20 [30], 1920.¹⁹

In order that the announcement of the purposes of the United States may be favorably received in Santo Domingo, and in order that the Commission, whose appointment is referred to in the Proclamation to be issued by the Military Government, may count upon popular support, I have the honor to inform you that the Department considers that the Provost Courts, now functioning throughout the Dominican Republic, should be abolished at once in order that all cases which are now brought before them may in the future be handled by the Dominican courts.

It is likewise the desire of the Department that Executive Order No. 385,²⁰ issued by the Military Governor, restricting the liberty of the press and the right of free speech, be cancelled. The Department considers it of the highest importance that this form of censorship imposed upon the Dominican people by the Military Government be withdrawn as soon as the Commission above referred to commences its duties. In this connection the Department believes that the effect upon public opinion in Santo Domingo would be excellent if the sentences imposed upon certain journalists in the Dominican Republic found guilty, after trial by court-martial, of violating the provisions of Executive Order No. 385, which were later suspended in accordance with your instructions, were at once remitted by decree of the Military Governor.

Upon further consideration the Department has reached the conclusion that it would be advisable to limit the number of the members of the Commission, mentioned in the second paragraph of the Proclamation to be issued by Admiral Snowden, to nine.

¹⁸ *Ante*, p. 136.

¹⁹ Not printed.

²⁰ *Post*, p. 163.

The Department is likewise of the opinion that since certain of the members of the Dominican Senate elected in 1914, which it was suggested might as a body form the Commission above referred to, have not the necessary experience or qualifications to undertake the important duties which will be entrusted to the Commission, it would be well to appoint to the Commission only such among the Senators as are properly qualified for these functions. The Department believes that the Commission might well be composed of the following representative Dominicans, of which three were elected to the Dominican Senate in 1913:

Monsenor Adolfo Alejandro Nouel, Archbishop of Santo Domingo, and ex-President of the Republic.

Doctor Francisco J. Peynado, former Minister of Finance.

Don Federico Velasquez y Hernandez, former Minister of Finance.

Doctor Jacinto R. de Castro, former Senator.

Doctor Enrique Jimenez, former Minister of the Interior.

Doctor Emilio Prud'homme, former Minister of Justice.

Doctor Rafael J. Castillo, former Senator, and actual [present] President of the Supreme Court.

Don Mario Fermin Cabral, former Senator.

Don Emilio Tejera, son of Don Emiliano Tejera, and representative of the Legalista Party.

The Department would be glad if the above list were referred to the Military Governor for such comment or recommendations as he may care to offer.

I have [etc.]

NORMAN H. DAVIS

839.00/2270a suppl.: Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 13, 1920—7 p.m.

45. Department's December 11, 1 p.m.

Upon further study of the situation, the Department is considering the advisability of having the following nine Dominicans appointed members of the Commission referred to in the Proclamation: Monseñor Adolfo Alejandro Nouel; Dr. Francisco J. Peynado; Don Federico Velasquez y Hernandez; Dr. Jacinto R. de Castro; Dr. Enrique Jimenez; Dr. Emilio Prud'homme; Dr. Rafael J. Castillo; Don Mario Fermin Cabral; Don Emilio Tejera.

You will note that all political factions will be represented if the Commission is constituted in this manner and that in addition, the most prominent Dominicans in public life will likewise be included.

The Department desires that you cable at once your opinion as to the desirability of appointing these individuals to form a Commission.

The Department is likewise considering the appointment of Judge Otto Schoenrich as Technical Adviser to the Commission. Please cable your views as to the advisability of this appointment and inform the Department of any recommendations in this connection which you may desire to make.

DAVIS

839.00/2282 : Telegram

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

SANTO DOMINGO, December 23, 1920—5 p.m.

[Received December 24—1 p.m.]

56. Referring to my cable of December 16, 5 p.m., number 55.²¹ After further conference [with] Military Government I again strongly recommend for the Commission the names of Dominicans submitted therein as follows: Archbishop Nouel; Don Federico Valasquez ex-Cabinet Minister, prominent aspirant for the Presidency; Doctor Francisco J. Peynado, ex-Minister at Washington, ex-Cabinet Minister of Doctor Francisco Henriquez y Carvajal and the most prominent lawyer of the Republic; Doctor Jacinto R. de Castro, Senator last Congress and strong partisan of Horatio Vasaquez; Doctor Emilio Prud'homme, author of *Dominican National Flag*,²² ex-Cabinet Minister of Doctor Henriquez partisan of the late President Jimenez; Doctor Rafael J. Castillo president of Supreme Court; Manual J. Lluveres, agriculturist at present Governor of Province of La Vega; Eliseo Espailat ex-Cabinet Minister of Dr. Henriquez and agriculturist from the most influential family of the north; Rolando Martinez, prominent merchant from the east. I earnestly recommend the appointment of Judge James A. Ostrand and as technical adviser to the Commission. He is distinguished lawyer with long service in the Philippines, Chief of Land Court and familiar with conditions here.

It will be noted that this list represents all elements, distinguished lawyers, agriculturists, and commercial men from the different sections of the Republic and also the most conservative representatives of the different political parties.

It is possible that some of these men may not be able to accept in which case names of substitutes will be furnished.

[No signature indicated]

²¹ Not printed.

²² National anthem of the Dominican Republic.

839.00/2284: Telegram

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

SANTO DOMINGO, December 27, 1920—5 p.m.

[Received December 28—3 p.m.]

57. The issuing of the proclamation last Thursday ²² has produced epidemic of protest in the press which is controlled by politicians. National Committee circulating protest declaring that nothing but abrogating and immediate restitution of sovereignty will be acceptable to the Dominican people. In view of the attitude of the press it may be difficult to secure Dominicans for the Commission.

RUSSELL

839.00/2287: Telegram

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

SANTO DOMINGO, December 29, 1920—5 p.m.

[Received December 31—12:45 p.m.]

58. Press denouncing as traitors any Dominican who serves as member of the Commission. To counteract this propaganda Military Government has communicated with Archbishop, Peynado, Jacinto de Castro, Velasquez, and Castillo, president of Supreme Court, all of whom were approved by the State Department and they have all accepted. These members think that nine is too many for the Commission and that five will be able to complete their work more in the interest of the people but they are willing to have seven members if the Department insists. The first four mentioned were members of the old Advisory Board and have already been unanimously approved by the whole country. Objection to an American technical adviser unless he is merely in a consulting capacity as representative of Military Government, and with this last point agreed upon all five members have accepted. All five are willing to proceed to Washington at once before coming to the work if so desired by the Department. If Department agrees to seven members the names of Eliseo Espallat and Manuel de J. Lluveres are earnestly recommended.

RUSSELL

²² December 23.

839.00/2282 : Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 30, 1920—1 p.m.

46. Your 56, December 23, 5 p.m.

The Department has given serious consideration to the recommendations which you have made after further conference with the Military Governor regarding the members of the Commission. The Department agrees with your suggestion that Don Eliseo Espailat should be appointed a member thereof. The Department has, however, determined that Doctor Enrique Jimenez and Don Mario Fermin Cabral should be appointed to membership on the Commission in place of Rolando Martinez and Manuel J. Lluveres. The Department considers it inadvisable that any Provincial Governor be appointed to the Commission and considers it wise, for reasons of policy, to include in the personnel of the Commission Jimenez and Cabral.

You may, therefore, inform the Military Governor that the Department has determined that the Commission should be appointed as above indicated. In the event that any of the Dominicans whom the Department desires appointed to the Commission are unwilling to accept the office, the Department desires your recommendations as to substitutes. You may likewise notify the Military Governor that the personnel of the Commission has been determined by the Department of State and by the Navy Department and that steps should be taken immediately to ascertain whether the nine men indicated for appointment are willing to undertake these duties. In the opinion of the Department, it will be necessary to pay at least a nominal salary to the members of the Commission during the life of the Commission, since several of the members, it is understood, are without private means.

The Department has not as yet determined upon the appointment of the Technical Advisor to the Commission. It is reluctant to agree to the appointment of any official so closely identified with the Military Government as Judge Ostrand. The question will, however, be given further consideration.

DAVIS

839.51/2148

*The Acting Secretary of State to the Secretary of the Navy
(Daniels)*

WASHINGTON, December 31, 1920.

SIR: I have the honor to acknowledge the receipt of your Department's letters of November 26,²⁸ and 29, 1920, (Op-13A, 16870-315:

²⁸ Not printed.

8 and 9), commenting upon this Department's letter of October 14, 1920, in which it was stated that the Department of State seems to be lacking in authority to issue instructions to the General Receiver of Dominican Customs regarding the segregation from the customs revenues of amounts to provide for the payment of interest and amortization upon the bonds of the "Dominican Republic 5% bond issue 1918".

With your Department's letter of November 26, 1920, there was transmitted a letter from the Military Governor of Santo Domingo in which he gives an explanation of the request heretofore made by him and transmitted by your Department to this Department on September 9, 1920, that instructions for such segregation be given.²⁴ It may here be stated that such original request failed on its face to take into account the provisions of Article I of the Convention of 1907 between the United States and the Dominican Republic as to the application by the General Receiver of the proceeds of the customs duties. However, the Military Governor, in the letter transmitted with your letter under acknowledgement, makes the explanation that the instructions asked for merely cover a part of that portion of the customs revenues which, under the terms of that Article of the Convention, were to accrue to the Dominican Government, and are intended to authorize the General Receiver instead of paying such sums directly into the Treasury of the Dominican Republic, to pay them to the Fiscal Agent of the 1918 bond issue. The Governor points out that with this view of the matter, the General Receiver will still be obligated to make the payments for the first four objects stated under that Article of the Convention, before any sum can be paid to the Fiscal Agent or to the Dominican Treasury.

It appears from this letter of the Military Governor that the General Receiver is now making payments according to the plan indicated, and that according to present indications, the bond issue of 1918 will be fully redeemed by December 31, 1922, or approximately three years prior to the final redemption of the bond issue of 1908. The Military Governor expresses the hope that this Department will see its way clear to permit the continuance of the present practice. On this point it may be said that this Department is entirely willing that the present practice should continue, and if you desire, will be pleased so to inform the Bureau of Insular Affairs.

However, as indicated in this Department's letter of October 14, 1920, it does not consider that it has authority to issue instructions to the General Receiver to make such payments.

²⁴ Letters and their enclosures not printed.

It is noted that in the opinion of the Judge Advocate General of the Navy, quoted in your letter of November 29, 1920, the view is expressed that reference to the Treaty of 1907 in connection with the matter under discussion, "seems scarcely even apposite". To this view the Department of State must strongly dissent. As indicated in its letter of October 14, 1920, and as hereinbefore suggested, that Treaty specifically provides what application shall be made of the sums collected by the General Receiver as customs revenues. As also indicated in that letter, the Military Government of Santo Domingo, of course, could not of itself alter the provisions of this Treaty; and, furthermore, the executive branch of the Government of the United States apparently could not alone enter into an arrangement for such alteration. Therefore, even if, as contended by the Judge Advocate General, the provisions of Executive Order No. 193, issued by the Military Governor of Santo Domingo were so issued by authority of the executive branch of the Government of the United States, the provisions of that Order for the segregation in question by the General Receiver of Customs would not be internationally binding as affecting the provisions of the Convention of 1907.

With reference to the inquiry of the Judge Advocate General as to who may require the General Receiver to make the segregation in question, it may be observed that this Department is of the opinion that there is no authority to make such a requirement. Nevertheless, as to the funds which the Treaty provides shall be paid to the Dominican Government, after the specific payments thereinbefore directed to be made, this Department is of the opinion that, if so requested by the Military Government, the General Receiver may apply a portion of such funds to the segregation in question, and as indicated above, this Department has no objection to such action by the General Receiver.

With respect to the views expressed by the Judge Advocate General as to the status of the Military Government of Santo Domingo, it is not the purpose in this communication to enter into an extended discussion. It may, however, be pointed out that in the proclamation of Captain Knapp, issued November 29, 1916, upon taking charge of the Military Government, it is stated that "this Military Occupation is undertaken with no aim or ulterior object of destroying the sovereignty of the Republic of Santo Domingo, but, on the contrary, is designed to give aid to that country in returning to a condition of internal order that will enable it to observe the terms of the Treaty aforesaid, and the obligations resting upon it as one of the family of nations"; and, that "all

revenue accruing to the Dominican Government, . . . shall be paid to the Military Government herein established, which will, in trust for the Republic of Santo Domingo, hold such revenue, and will make all the proper legal disbursements therefrom necessary for the administration of the Dominican Government, and for the purposes of the Occupation”.

It may also be pointed out that on December 29[20], 1916, the Department of State telegraphed the American Minister at Santo Domingo that the position of his Legation should be practically the same as before the proclamation of the Military Government, and that it should advise on all points with the Military Government, “which is carrying on the Government for the Republic”.²²

On April 7, 1917, Captain Knapp issued an order to the Commander, Second Provisional Brigade, United States Marines, in which he set forth that in the world war, “the attitude of the Dominican Government should be that of a neutral, in so far as the existing circumstances of the Military Government permit”.

The annual report of the Military Government “from date of proclamation, November 29, 1916, to June 30, 1917,”²³ contains the statement that a Postal Convention had been concluded (by the Military Government) between the Dominican Government and the United States.

Executive Order, No. 15, of the Military Government, of December 29, 1916, expresses the determination of the Military Government to administer the affairs of the Dominican Republic without incurring any indebtedness, except as stipulated in the Convention of 1907.

In the agreement rendered necessary by the Convention of 1907 to increase the public debt of the Dominican Republic, the Military Government, of course, acted for the Dominican Republic, and this Department for the Government of the United States; and this Department stated in its letter to your Department of July 19, 1918,²⁴ “this request of the Military Governor of Santo Domingo on behalf of the Dominican Republic, and the concurrence of this Government therein, may, it is believed, be taken to constitute, in the circumstances, the ‘agreement between the Dominican Government and the United States’, required by Article III of the Treaty of February 8, 1907, prior to the increase of the public debt of Santo Domingo in the manner proposed.”

I have [etc.]

NORMAN H. DAVIS

²² *Foreign Relations*, 1916, p. 249.

²³ *Ibid.*, 1917, p. 709.

²⁴ *Ibid.*, 1918, p. 376.

839.00/2355

*The Secretary of the Navy (Denby) to the Secretary of State*WASHINGTON, *March 9, 1921.*

SIR: I have the honor to forward herewith for the information of the Department of State, a copy of the Quarterly Report of the Military Governor of Santo Domingo, for the period October 1 to December 31, 1920.

Sincerely yours,

EDWIN DENBY

[Enclosure—Extracts]

*Quarterly Report of the Military Governor of Santo Domingo
(Snowden)*[SANTO DOMINGO,] *January 2, 1921.*

The sudden change of policy by the Home Government deciding to turn over the government to the Dominican people struck the Military Government at a most unfortunate period, when this administration was struggling with an economic crisis and depressed financial returns. It is, however, hoped that the \$5,000,000.00 loan may yet be approved and render possible the amelioration of the extensive unemployment and the critical need of funds in circulation by the mass of the people. During the past quarter the government was forced to lay an embargo on imports of rice in order to forestall a commercial crisis and extensive bankruptcy of firms. It also became necessary to lay a partial embargo on cotton goods to protect the local importers against foreign or outside competition and avoid extensive failures. These measures reduced the income of the government and have produced a financial stringency which necessitates temporary measures to tide over lean months until the ordinary income is increased.

The government is, however, perfectly solvent; by issuing temporary certificates of indebtedness, the temporary stringency will be ameliorated. The government has also been compelled to greatly reduce personnel and expenses in all departments to meet its reduced income.

On December 23, 1920, by order of the Navy Department, there was issued a proclamation (copy enclosed)²⁵ announcing the intention of the United States Government to inaugurate a simple and rapid withdrawal from the responsibilities assumed in connection

²⁵ Not printed; see text quoted in telegram no. 42, Dec. 4, to the Minister in the Dominican Republic, p. 145.

with Dominican affairs and, as a preliminary step, the intention to appoint a commission of representative Dominicans to revise the existing laws of the republic and to frame new laws and amendments to the constitution. This proclamation was received in a widely varying manner by the different classes of people residing in the Dominican Republic. The American, foreign and Dominican business people and pro-American Dominicans who appreciate the benefits derived from the Occupation, believing the Dominicans not yet ready to assume control of their Government and incapable of carrying out the reforms and public improvements instituted by the Military Government and nearing completion, regarded the announcement of withdrawal as premature. The country people, laborers and poorer classes, appreciating their immunity from effects of revolutions and disorders under the Military Government and perfectly satisfied with present conditions which enable them to work and enjoy the fruits of their labor unmolested, received the proclamation with indifference. The professional politicians and agitators were entirely in discord with the proclamation and immediately set up a clamor and instituted a vicious campaign of propaganda in the newspapers against the terms thereof and against the United States Government and the Military Government, having gone so far as to brand with the name of traitors all those Dominicans who assisted the United States or the Military Government in any way in the accomplishment of the purpose of the United States as set forth in the proclamation. In this manner the task of obtaining representative Dominicans to serve on the Commission was rendered very difficult. Also at this time the Navy Department ordered the Military Governor to repeal Executive Orders Nos. 572 and 573, the Anti Sedition and Anti Defamation Laws promulgated by the Military Government,²⁶ thus removing all restrictions and giving absolute license to agitators in their attacks on the United States and the Military Government and on those Dominicans who might in any way assist the Military Government. However, acting under instructions from the Navy and State Departments, the Military Governor called into informal conference the former Consultative Commission and the President of the Supreme Court and after explaining to them the terms of the proclamation invited them to become members of the new commission. These five gentlemen of the highest standing in the Dominican Republic expressed their desire to cooperate but later, influenced by the newspaper propaganda directed against the Dominicans who might assist the Military Government, communicated with the Military Governor by letter expressing their inability to serve on the commission unless

²⁶ *Post*, pp. 169 and 171.

certain impossible changes were made in the terms of the proclamation. The Military Governor replied, expressing his regret, that the terms of the proclamation could not be changed as desired by them and also regretting their inability to serve at that time but hoping for their co-operation in the near future, thus leaving the door open whenever they might care to enter, and it is with great pleasure that the Military Governor has at this time been able to announce to the Navy Department that these five gentlemen have changed their minds and formally accepted the invitation to become members of this most important commission.

Owing to the immense amount of political anti-American propaganda being spread throughout the Republic by political agitators and the fact that the economic conditions are in a state of uncertainty there was and is a decided feeling of unrest throughout the entire Republic. In order to prevent trouble, rather than to promote it, the extensive patrolling of the previous quarter was increased. The largest number of patrols during the year were carried out during this, the last quarter. The number of active bandits were at the minimum during the first two months but increased during the latter part of December. There were five contacts with bandits, three of whom were killed and one wounded with no casualties among the Marines.

5. On 29 November 1920, the Officer Administering the Affairs of the Department of Finance and Commerce was ordered to the United States with authority to represent the Military Government of Santo Domingo in requesting the approval of the State Department of the United States to obtain a loan for the Dominican Republic of \$10,000,000.00, for the purpose of completing necessary and desirable public works in this country and upon approval by the State Department to negotiate this loan in the United States. Shortly after this time, due to the fact that the approval of the State Department for the loan was not obtained and due to the decrease of government revenues, caused by the economic and commercial crisis, it was found necessary to make a drastic cut in all financial expenditures until such time as the revenues might increase and the proposed loan be obtained. The decrease in the government's income necessitated that the expenditures be decreased from \$800,000.00 per month to \$300,000.00 per month, a cut of \$500,000.00 and it is easily seen what a drastic reduction resulted. The first result is the practical stopping of public works. Even should the revenues increase in the near future, public works could not be resumed at their former rate. Nothing but the proposed

loan would allow that. The second result of the reduced expenditures is a general reduction in all government services. Since such services have been conducted efficiently heretofore, it is obvious that such reductions will be very harmful. The only course is to make the cuts in the places where they will produce the least harm. Should the revenues exceed present indications, expenditures on government services can be increased in proportion, but it must be pointed out that even though we increase expenditures for services to the full amount authorized in the 1921 Budget it would not cause sufficient release of money to benefit greatly the present depressed commercial situation. Due to world-wide conditions, commerce in Santo Domingo, as elsewhere, is depressed. Merchants are overstocked in many lines of goods and are faced with a falling market. Their customers cannot buy at prices for which the merchants can sell, as the purchasing power of the people has decreased very greatly due to the sudden drop in price of their principal products; sugar, tobacco, cacao and coffee. The result is a vicious circle. The merchants must liquidate outstanding loans or obtain further credit from the banks. They cannot liquidate unless they can sell at a good price—and their customers cannot pay such a price. The credit of the merchants is now used to the limit. The banks cannot make further loans and must call in some now outstanding on account of the great reduction in government deposits. Neither merchants nor banks can aid the producers who need aid through the present depressed condition of their market. The financial affairs of merchants, bankers, producers and consumers are inextricably interlocked. Each needs cash or further credit from the other. Cash or further credit none of them have. This must come from an outside source. The only possible outside source is the unused credit of the government. To use the government's credit for the purposes of a productive loan would not be an attempt of the Republic "to hoist itself by its own boot-straps". Practically every item on the proposed public works program, with the possible exception of the Leprosarium and the Penitentiary, is a revenue producer or a money saver. Good roads mean the opening of hitherto untouched sources of wealth. Good harbors mean increased commerce. Good schools mean increased productivity through better educated workers. The proposed public buildings will save their cost in increased efficiency and elimination of rents. These effects of course are general, but it is desired to emphasize them as they show that this loan will pay for itself and would be desirable at any time. It is doubly desirable now in view of the financial condition described above. The sudden and immediate effect of going on with these public works at a rapid rate now,

instead of by minute degrees on current income, is that the money thus suddenly released would go into the pay envelopes of the workers—from the pay envelopes to the stores—from the stores to the banks—from the banks to necessary credit to merchants and producers—from producers to more workers. A conservative estimate is that every dollar released by the government will be worth four dollars to commerce. Moreover, since the proposed \$10,000,000.00 could not be released in a day, much of this amount would be on deposit with various banks for a considerable period of time and would enable them to help in alleviating the financial crisis. The aid thus given to commerce through direct expenditures and bank deposit[s] will react directly on the income of the government. The reason is that Dominican revenue is almost totally dependent on commerce. That is, the customs and the internal revenue are almost entirely taxes on commercial affairs. Even the land tax depends largely upon commerce, as if the products or the rent of the land do not yield sufficient revenue the owner will default in payments, the land revert[s] to the government, and the government has no buyers. Actually 90% or more of the government's income depends on commerce. The direct effect of commerce on our income is forcibly brought to attention by the obvious coincidence of the commercial crisis and our declining revenue. The loan would mean increased profitable commercial activity, which would mean increased revenue. This in turn would aid in paying the interest and amortization on the loan and in resuming government services on the scale proposed in the 1921 Budget. At the time of the present writing the State Department of the United States has refused to approve the proposed loan for the Dominican Government unless this loan be approved by the Commission of representative Dominicans. Dominican politicians and agitators will not approve the loan for many reasons, chief of which are:

- (a) They believe refusal would embarrass the Military Government.
- (b) They believe failure of the loan would hasten termination of the Military Government.
- (c) They believe termination of the Military Government would end land tax and land surveys, enabling them (the politicians) to resume their old land-grabbing policies.
- (d) They believe termination of the Military Government would let them get control of the Treasury.
- (e) They believe a loan is necessary, but one or more of them wish to float such a loan themselves as they believe there is a certain amount of personal "graft" for the person who places the loan.

On the other hand, the vast majority—in fact nearly all—Dominican business men want the loan as they know failure of the loan

means financial disaster for themselves. But, they are afraid to state their opinion openly. They fear the intention of the United States State Department is to turn over the country to their old politicians—and in that case the lives or the property, or both, of all who had gone counter to the politicians would be forfeit. This attitude in itself is a sure indication of the Dominican people's unfitness for self-government. These business men far outnumber the politicians and could—if they had the courage—throw the politicians out of power. The information given in this and the preceding paragraph is not from my own imagination. It is a digest of reports received from agents all over the Republic. Failure of the loan will result in an economic disaster. The question as to whether or not the occupation is justified will always, perhaps, depend upon the point of view of the person arguing. But, if economic conditions are good and the people well off the world will say the occupation justified itself. If, however, while under control of the United States, the Dominican Republic should suffer financial disaster the occupation will be regarded as a failure.

The new sanitary code was published in December. It now replaces the previous scattered sanitary regulations, embodying these requirements in a concise form. For the purposes of this code, the cities and towns are classified according to population and the requirements of the code are graded accordingly.

19. The representatives of the State Department and the Receiver General of Customs have continued in their cordial relations and hearty cooperation with the Military Government and this fact is greatly appreciated.

THOMAS SNOWDEN

CENSORSHIP

Relaxation of the Censorship—Trial of Journalists for Offenses against Regulations—Executive Orders of the Military Governor, December 6, 1920, Defining and Prohibiting Defamation and Sedition; Objections by the Department of State to the Executive Orders and the Concurrence of the Navy Department in Their Annulment

123R911/115c: Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Russell)*

WASHINGTON, December 10, 1919—2 p.m.

Department desires information as to present practice regard to Provost Courts, extent of control of censorship, and suppression right of assembly. You are instructed, first, to investigate these matters and after having collected all available information to

proceed to Washington for consultation. Department considers that it would be advisable for you to be in Washington at same time representative of Military Government is here for Financial Conference January 12. If necessary you are authorized to go into interior to collect complete information. Inform Department whether there are any reasons to make your absence from the Legation in January inadvisable.

LANSING

889.918/1: Telegram

The Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 23, 1919—1 p.m.

Information has reached the Department that regulations as to censorship have been modified. Inform Department extent of changes and when made.

LANSING

889.918/2: Telegram

The Minister in the Dominican Republic (Russell) to the Secretary of State

SANTO DOMINGO, December 25, 1919—5 p.m.

[Received December 26—3:20 p.m.]

Your December 23, 1 p.m. Regulations made several days ago practically abolishing censorship but forbidding publication of slanderous or false statements against Military and United States Governments and articles tending to disturb order by calling on people to revolt and also labor agitation articles tending to disturb public. Expect to arrive Washington January 10 with full information requested in your cable December 10, 2 p.m.

RUSSELL

889.918/2: Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, December 27, 1919—6 p.m.

Your December 25, 5 p.m.

Please bring with you full text of regulations forbidding publication of false statements against Military and United States Government and articles attempting to disturb order and labor agitation.

POLK

839.918/3: Telegram

The Secretary of State to the Chargé des Affaires in the Dominican Republic (Brewer)

WASHINGTON, January 12, 1920—5 p.m.

1. After consultation with Navy Department and Mr. Russell it is considered that since censorship has been practically abolished by the order of December 22 from Military Governor to Brigade Commander, an executive order should be issued abolishing censorship but continuing in force all regulations in regard to publication of articles outlined in said order to Brigade Commander and holding civilly and criminally responsible violators of its provisions. Consult with Military Governor at once on this subject.

LANSING

839.918/4: Telegram

*The Chargé des Affaires in the Dominican Republic (Brewer)
to the Secretary of State*

SANTO DOMINGO, January 16, 1920—2 p.m.

[Received January 17—9:07 a.m.]

3. Your telegram received today. Military Government issuing Executive order abolishing censorship, and embodying provisions suggested.

BREWER

839.918/6

*The Chargé des Affaires in the Dominican Republic (Brewer)
to the Secretary of State*

No. 542

SANTO DOMINGO, January 22, 1920.

[Received February 17.]

Sir: With reference to the Department's telegram of January 12, 5 p.m., No. 1, and my telegraphic reply No. 3 of January 16, 2 p.m., I now have the honor to enclose herewith copies of the Executive Order No. 385 of January 15, 1920, abolishing the censorship, but prohibiting the publication of articles or the making of speeches in public places of a certain nature, violators of these prohibitions being subject to trial and punishment by the Provost Court.

I have [etc.]

JOHN BREWER

[Enclosure—Translation]

Executive Order No. 385, January 15, 1920, of the Military Government of Santo Domingo, Relaxing Censorship

By virtue of the powers vested in the Military Government of Santo Domingo the following Executive Order is dictated and promulgated:

1. The censorship in Santo Domingo is hereby abolished and the order entitled "Censorship" appearing in the *Official Gazette* No. 2758 and all other laws, decrees and orders establishing a censorship are hereby repealed.

2. In order to prevent disturbances of the public order, all persons are forbidden to publish articles in magazines, newspapers, pamphlets, periodicals, handbills, or any other publications or to make speeches in public of the following nature:

(a) Those which teach the doctrines now commonly known as Bolshevism or anarchy which, under the present circumstances prevailing in the Republic, may lead to unrest or disorder.

(b) Those which teach doctrines or practices contrary to public morality as understood by all civilized nations.

(c) Those which are so hostile towards the Government of the United States, its policies and its officers, or so severely critical of them as to incite the people to unrest, disorder or revolt.

(d) Those which are so hostile in tone towards the Military Government, its policies and officers, civil or military or which are so severely critical of them as to incite the people to unrest, disorder or revolt.

(e) Those which hold up to scorn, obloquy or ridicule, the conduct of the United States Government, of the Military Government, or of their officers, in such a manner that they tend to create disorder or revolt in the Republic.

(f) Those which describe present conditions in Santo Domingo in a manifestly unfair or untruthful manner and in such terms as to incite the people to disorder.

3. The rights of assembly and free speech shall not be interfered with except as necessary to preserve order.

4. Violation of the above prohibitions shall be considered an offense against the Military Government and the offender shall be subject to trial and punishment. The author of the speech or article, the publisher thereof and all persons knowingly aiding or abetting the writing, delivery, or publication thereof shall be considered as parties to the offense and punishable therefor, and this shall be

taken to include all persons responsible for or having control over the magazine, periodical, newspaper, or other publications in which the article shall appear, or over the place or hall in which the speech shall be made.

5. In addition to the above punishment and without derogating therefrom, the publication of any magazine, newspaper, periodical or other publication in which articles violating the prohibition of this order may appear may be suspended or prohibited and any hall or public place in which speeches violating this order are made may be closed.

THOMAS SNOWDEN

Rear Admiral, U.S. Navy

Military Governor of Santo Domingo

SANTO DOMINGO CITY, D.R.,

January 15, 1920.

339.3921L96/a : Telegram

The Secretary of State to the Chargé des Affaires in the Dominican Republic (Brewer)

WASHINGTON, July 30, 1920—8 p.m.

28. Department informed Amerigo Lugo and Fabio Fiallo and other Dominican citizens have been imprisoned by Military Government for infractions of censorship regulations, and that they are being tried by special Court Martial. Advise Department fully at once regarding this case.

COLBY

339.3921L96/3 : Telegram

The Chargé des Affaires in the Dominican Republic (Brewer) to the Secretary of State

SANTO DOMINGO, August 3, 1920—6 p.m.

[Received August 6—2:15 p.m.]

29. Your 28, July 30, 8 p.m. Fiallo and Lugo arrested by Military Government. The articles published press considered violation of the regulations put into effect at the time of abolishment censorship. Fiallo now on trial by military commission. Flores Cabrera, exiled Venezuelan, proprietor paper in which articles appeared, arrested and on trial. Lugo on bail awaiting trial. These and other arrests result of articles and speeches in connection with patriotic week celebrated June last for the purpose of raising funds for propaganda restoration of national government. Patriotic week a farce although it is reported that considerable money contributed mostly for reasons

fear of public opinion and so-called business abrogating obligations. Discord created as to disposition of funds whether for maintaining Dr. Henriquez and family, publication of periodical New York, propaganda Latin America, or for purchase of arms and ammunition for armed resistance if other methods fail. Newspaper herein mentioned is *Noticias* subsidized by Enrique Henriquez and Lugo as official organ National Union Party reported my despatch number 555, March 21.²⁰ Lugo and Cabrera arrested after warnings from Acting Military Governor.

BREWER

339.3921L96/3: Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Russell)*

WASHINGTON, August 13, 1920—6 p.m.

31. Your August 3, 6 p.m.

Department desires you to inform the Military Governor that the arrest of Lugo, Fiallo and Flores Cabrera has caused deep concern throughout Latin America. The Department has received telegrams from numerous Latin American press associations protesting against the arrest of these men. A particularly unfortunate impression has been created because of the trial of these individuals by court martial for what are reported to be trivial offenses.

In view of the continued agitation, you are instructed to state to the Military Governor that the Department hopes that it may be possible to conclude the trials at an early date and to express to him the opinion of the Department that unless the penalty imposed be light, in the event that these men are convicted, Lugo and his companions will become martyrs in the estimation of the Dominican public generally and the action of the Military Government will have an unfortunate effect in Latin American countries.

If you have not already done so you are instructed to send by the next mail copies of the Articles upon which the accusations are based.

COLBY

339.3921L96/32a

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, September 2, 1920.

MY DEAR MR. SECRETARY: With reference to our conversation of last week regarding the trial by court martial of two Dominicans named Fabio Fiallo and Amerigo Lugo, the Department of State

²⁰ Not printed.

has today received a cable ²⁷ from the American Minister to Santo Domingo stating that Fiallo has been sentenced to one year's imprisonment and the payment of a fine of \$2500.

I am taking the liberty of bringing this to your attention since it was my understanding that you intended to have the Military Governor take steps to deport Flores Cabrera, a Venezuelan associated with the men above mentioned in their propaganda against the American Occupation, and to have the two Dominicans themselves released after a warning had been given them by the proper authorities. It may be, of course, that the Military Governor feels obliged to have this severe sentence imposed upon Fiallo, for the moral effect which it may have throughout the Republic, and later pardon him. If this is not the case, I should be much obliged if you would let me know whether you have received additional information from the Military Governor which makes you believe it desirable that this heavy sentence be imposed, since I fear the report of this case will be made considerable use of in propaganda directed against the Military Occupation of Santo Domingo in other Latin American countries.

Faithfully Yours,

BAINBRIDGE COLBY

339.3921L96/17

The Secretary of the Navy (Daniels) to the Secretary of State

WASHINGTON, September 3, 1920.

MY DEAR MR. SECRETARY: I am in receipt of your favor of September 2nd with reference to the case of Fabio Fiallo and Amerigo Lugo. The following cablegram has been sent to Rear Admiral Thomas Snowden, Military Governor of Santo Domingo:

"Suspend all proceedings with reference to men who have been arrested for alleged revolutionary tendencies until you hear from me, and suspend sentences pending approval in Washington. Mail full reports with findings for action here."

Will not this meet the situation?

Sincerely yours,

JOSEPHUS DANIELS

339.3921L96/17

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, September 10, 1920.

MY DEAR MR. SECRETARY: I have received your letter of September 3, referring to the case of Fabio Fiallo and Amerigo Lugo, and

²⁷ Not printed.

informing me of the action which you have taken in sending a cablegram to the Military Governor of Santo Domingo instructing him to suspend all proceedings with reference to the men who have been arrested until he hears further from you, and to suspend any sentences pending their approval in Washington.

I feel that the action which was taken most fully meets the situation, and I am sure that its effect will prove most helpful to our interests throughout Latin America. I much appreciate your courtesy in advising me of the step which you have taken.

Believe me [etc.]

BAINBRIDGE COLBY

339.3921L96/25a: Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Russell)

WASHINGTON, October 8, 1920—6 p.m.

38. Cable Department immediately whether instruction of the Secretary of the Navy to suspend all proceedings in connection with the recent trial by court martial of certain Dominican journalists has resulted in the suspension of the sentence of Fabio Fiallo and whether he has yet been placed at liberty. Advise Department at the same time whether any journalists or publishers are now imprisoned for similar offenses committed since the relaxation of the censorship.

DAVIS

339.3921L96/26: Telegram

The Minister in the Dominican Republic (Russell) to the Secretary of State

SANTO DOMINGO, October 11, 1920—5 p.m.

[Received October 13—4:15 p.m.]

45. Your October 8, 6 p.m. Fiallo has not been released. Execution of sentence of court martial against him suspended in accordance with instructions from the Navy Department and he is being held in custody for safekeeping until Navy Department has acted on the final sentence as forwarded by reviewing authority. Two other journalists, Sanabia and Castillo, are held in custody awaiting acquittance by Navy Department on the sentence of court martial. In the case of Cabrera, Venezuelan, all sentence against him was remitted except fine of \$2500 which has not been collected but he was allowed to leave for the United States on depositing bond to secure this fine. Commandant of Marine Corps who recently visited here is familiar with all the details of this matter. All proceedings against Lugo have been postponed indefinitely.

RUSSELL

339.3921L96/28: Telegram

The Minister in the Dominican Republic (Russell) to the Secretary of State

SANTO DOMINGO, October 13, 1920—5 p.m.

[Received October 14—3:38 p.m.]

46. Fiallo placed at liberty to-day under surveillance for medical treatment private hospital.

RUSSELL

339.3921L96/33: Telegram

The Minister in the Dominican Republic (Russell) to the Secretary of State

SANTO DOMINGO, October 23, 1920—5 p.m.

[Received October 25—4:10 p.m.]

49. Journalists Sanabia and Castillo placed at liberty under surveillance. There are now no journalists imprisoned.

RUSSELL

339.3921L96/33a

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, November 16, 1920.

SIR: With reference to previous correspondence regarding the imprisonment and trial in Santo Domingo by the Military Government, of certain Dominican journalists and publishers, I have the honor to inform you that the Department is advised that Horacio Blanco Fombono, Director of the *Revista de Letras*, is now imprisoned in Santo Domingo and is awaiting trial, apparently for offenses similar to those committed by Senor Fabio Fiallo and Senor Amerigo Lugo. This information has not been conveyed to the Department through the American Legation in Santo Domingo, and the report of this individual's imprisonment has apparently not yet been confirmed. I have therefore the honor to request that you be so good as to advise the Department whether the Navy Department has received information confirming this report.

I have [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

339.3921L96/34

The Secretary of the Navy (Daniels) to the Secretary of State

Op-13

16870-517:9

WASHINGTON, November 23, 1920.

SIR: In reference to your letter, LA, of November 16, 1920, requesting that this department advise the State Department whether or not information has been received confirming a report that Horacio Blanco Fombono, Director of the *Revista de Letras*, is at present confined in Santo Domingo awaiting trial, apparently for offenses similar to those committed by Senor Fabio Fiallo and Senor Amerigo Lugo.

I beg to inform you that in response to a dispatch sent to the Military Governor of Santo Domingo requesting information on this subject, the Military Governor of Santo Domingo reports as follows:

"Untruthful and libelous article and picture was published in *Revista de Letras*, of which Fombono is director, charging tortures inflicted on Dominicans by American officers. Arrest and confinement of Fombono were absolutely necessary to stop false charges against occupation and to preserve order. He was arrested and kept in confinement for four days awaiting trial. He was tried, convicted, and fined three hundred dollars, and has paid fine and been liberated. Have this date, mailed full report."

Yours sincerely,

JOSEPHUS DANIELS

889.00/2285

The Minister in the Dominican Republic (Russell) to the Acting Secretary of State

No. 642

SANTO DOMINGO, December 9, 1920.

[Received December 28.]

SIR: I have the honor to enclose herewith copies of the "Sedition Law" and "Defamation Law" issued lately in Executive Orders of the Military Government.

I have [etc.]

WILLIAM W. RUSSELL

[Enclosure 1]

Executive Order No. 572, December 6, 1920, of the Military Government of Santo Domingo, Regarding Sedition

By virtue of the powers vested in the Military Government of Santo Domingo, the following Executive Order is promulgated to assure order and tranquility in the Dominican Republic:

ARTICLE 1. All speeches in public and all publications in any magazine, newspaper, pamphlet, periodical, handbill or in other printed or written form, are hereby prohibited in any of the following circumstances:

(a) When such speech or publication contains anything which favors, supports or advocates anarchy or what is known as Bolshevism;

(b) When such speech or publication contains any statement, teaching or doctrine counselling, advising or suggesting either the overthrow of the Military Government by force or resistance to any law or lawful order thereof;

(c) When such speech or publication is so hostile towards the Military Government, or that of the United States, their policies and their officers, civil or military, or so severely critical of them as to indicate an intent to incite unrest, disorder or revolt;

(d) When such speech or publication contains any portrayal or representation of conditions in the Dominican Republic in such terms as to indicate an intent to incite unrest, disorder or revolt.

Intent as used in this Article may be conclusively presumed from the nature and character of the publication or speech and the natural meaning of the words used therein.

ARTICLE 2. The right of assembly and free speech shall not be interfered with except as necessary to preserve order.

ARTICLE 3. Violations of the above prohibitions shall be considered an offense against the Military Government and the courts thereof shall have jurisdiction to try and determine all cases arising hereunder. The author of the speech or article, the publisher thereof and all persons knowingly aiding or abetting the writing, delivery or publication thereof, shall upon conviction be punished as principals, and this shall be taken to include all persons responsible for or having control over the magazine, periodical, newspaper or other publications in which the article shall appear, or over the place or hall in which the speech shall be made.

ARTICLE 4. In addition to punishment for the above and without derogating therefrom, the publication of any magazine, newspaper, periodical or other printed or written matter in which articles violating this order may appear, may be suspended or prohibited, and any hall or public place in which speeches violating this order are made may be closed.

ARTICLE 5. A violation of any of the provisions of this order will subject the offender to a fine of not more than \$3,000 dollars or imprisonment at hard labor of from one month to five years, or both such fine and imprisonment. The provisions of the Penal Code respecting the penalty of *trabajos publicos* shall not apply to infractions of this Law.

ARTICLE 6. Paragraphs numbered 2, 3, 4 and 5 of Executive Order No. 385 are hereby revoked.²⁸

ARTICLE 7. All laws and parts of laws in conflict with this Law, are hereby repealed.

THOMAS SNOWDEN
*Rear Admiral, United States Navy,
Military Governor of Santo Domingo*

SANTO DOMINGO, D.R.
Dec. 6, 1920.

[Enclosure 2]

Executive Order No. 573, December 6, 1920, of the Military Government of Santo Domingo, Regarding Defamation

By virtue of the powers vested in the Military Government of Santo Domingo, the following Order is hereby promulgated:

ARTICLE 1. "Defamation" and "insult", as herein defined and penalized, are hereby declared to be *delitos*.

ARTICLE 2. The penalty for publicly defaming or insulting the Government of the United States of America or any officer thereof, or the Military Government of Santo Domingo or any officer thereof, shall be correctional imprisonment of not more than two years, or fine of not more than one thousand dollars, or both such fine and imprisonment.

ARTICLE 3. Defamation is the allegation or imputation of an act the commission of which would bring dishonor or ill-repute upon some person or entity. An insult is any insolent remark, invective or contemptuous expression that does not convey an imputation that a certain act has been committed.

ARTICLE 4. Defamation of any other representative, agent or employee of the Government of the United States or of the Military Government shall be punished by a fine of not more than five hundred dollars or by imprisonment of not more than six months or by both such fine and imprisonment.

ARTICLE 5. Imputations made concerning such officer, representative, agent or employee, when identified by name or otherwise, do not constitute defamation nor insult where such imputations are the expression of the truth. The burden of proving the truth thereof rests with the accused.

ARTICLE 6. In case of an insult or defamation of any such officer, representative, agent or employee, when not identified by name or otherwise, the offense shall be deemed as against the corresponding Government.

²⁸ *Ante*, p. 163.

ARTICLE 7. Infractions of this Executive Order shall be tried and determined by tribunals of the Military Government of Santo Domingo.

ARTICLE 8. All laws and parts of laws in conflict with this Law are hereby repealed.

THOMAS SNOWDEN
Rear-Admiral, United States Navy,
Military Governor of Santo Domingo

SANTO DOMINGO, D. R.,
Dec. 6, 1920.

839.918/9

The Acting Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, January 3, 1921.

MY DEAR MR. SECRETARY: I have the honor to inform you that this Department has just received, and noted with much concern, a despatch from the American Minister at Santo Domingo enclosing copies of Executive Orders Nos. 572 and 573, forbidding under penalty publication of certain articles or the expression of certain statements within the Dominican Republic, of which I presume, from the recent conversations which you have had with the Department of State, you likewise have been unaware.

I feel certain, from sentiments which you have expressed from time to time, that you fully concur in my opinion that the above mentioned Executive Orders are peculiarly objectionable as breathing a spirit foreign to American ideals and actions. And further, I view these Executive Orders, if possible, with the more regret since they are calculated to counteract the good effect of our Proclamation of December 23rd last,²⁰ relative to withdrawal, as well as to embarrass the successful achievement of the intentions set forth therein.

Therefore, I hasten to enclose herewith, as agreed upon in a recent conversation in this connection, an Executive Order²⁰ for promulgation by the Military Governor of Santo Domingo, which will revoke Executive Orders Nos. 572 and 573, and leave in force as Article II. the second paragraph of Executive Order No. 385, clauses (a) and (b).²¹

In view of the seriousness of this matter, I have the honor to request that instructions to the above effect be sent immediately to Rear Admiral Snowden, Military Governor of the Dominican Republic, and that he be informed of the opinion of the Department of State in regard to Executive Orders Nos. 572 and 573.

I am [etc.]

NORMAN H. DAVIS

²⁰ *Ante*, p. 145.

²⁰ Not printed.

²¹ *Ante*, p. 163.

839.918/10

The Secretary of the Navy (Daniels) to the Acting Secretary of State

WASHINGTON, *January 5, 1921.*

MY DEAR MR. SECRETARY: I am in receipt of your esteemed favor of the 3rd instant, in which you state that the Executive Orders issued by the Military Governor of Santo Domingo are calculated to counteract the good effect of the Proclamation of December 23rd last, relative to withdrawal.

I concur with you in this opinion and have cabled the Military Governor to issue a new proclamation annulling Executive Orders Nos. 572 and 573 and in its place to issue a proclamation requesting co-operation and appealing to the best sentiment of the people of Santo Domingo to co-operate in the high purpose we have in mind.

I am [etc.]

JOSEPHUS M. DANIELS

BOUNDARY DISPUTE WITH HAITI

(See volume I, pages 295 ff.)

ECUADOR

FINANCIAL AFFAIRS

Project for an Italian Loan of 40,000,000 Sucres to Ecuador—Plan for Refunding the Ecuadoran Foreign Debt by Banks in the United States

722.65/Orig. : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, October 2, 1919—noon.

[Received 8:35 p.m.]

Morning papers publish following clauses from memorandum presented to Government of Ecuador by Colonel Bendetto Accorsi, Chief of the Commercial Delegation of the Italian Government who arrived in Quito a few days ago:

"1st, Italy will send a minister resident to Quito and a consul of career to Guayaquil;

2d, an Italian company guaranteed by the Italian Government will establish an aero service for mail in the triangle Quito, Cuenca, Guayaquil;

3d, the Ecuadorean Government will cede to Italy the monopoly of tobacco in leaf with guarantees for the manufactured tobacco in the entire Republic. In exchange the Italian Government grants to Ecuador a credit of 30,000,000 sucres for use exclusively for following purposes:

- (a) Ten million sucres for construction of the railroad from Quito to Esmeraldas.
- (b) Ten million for construction of the railroad from Puerto Bolivar to Cuenca and Loja.
- (c) Ten million for the railroad from Guayaquil to St. Elena and the respective wharves each one of these ports.

Preference to be given to Italian companies for the exploitation of mines and coal, petroleum, minerals, forests, et cetera not only on the continent but also in the Galapagos Islands."

Newspaper reports President called a meeting of the Cabinet yesterday to consider the memorandum.

Will report developments.

HARTMAN

822.51/272: Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, October 23, 1919—11 a.m.

[Received 8:10 p.m.]

On October 20th a bill was introduced in Congress authorizing the Executive to contract for a loan in the exterior of \$50,000,000 at not exceeding 6 percent interest per annum, 1 percent for amortization, and a discount not exceeding 15 percent for placing loan. Proceeds to be used in constructing railroads, canalization and sanitation of Guayaquil, service of interest and amortization of amount due holders of bonds of Guayaquil and Quito Railway and one half due to the national banks. It is probable that Congress will pass bill. Proposal cabled by the Ecuadorean Consul General New York and is understood to be made by American bankers.

HARTMAN

722.65/3: Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, November 5, 1919—5 p.m.

[Received November 6—8:20 p.m.]

My October 2 noon. Bill based on amended memorandum authorizing President to make contract *ad referendum* for loan of 40,000,000 sucres and including other provisions reported in my said telegram of October 2 noon, passed by Congress.

HARTMAN

822.51/277

The Minister in Ecuador (Hartman) to the Secretary of State

No. 466

QUITO, November 12, 1919.

[Received December 12.]

SIR: Referring to my despatch No. 455, of November 5, 1919,¹ and to previous correspondence, relating to a bill passed by Congress, authorizing the President to make an *ad referendum* contract for a loan to Ecuador with the Italian Government, etc., I have the honor to enclose herewith triplicate copies of the law, with translation, as it was passed and approved on November 3, 1919.

By comparing this law with the original proposal submitted to the Government by Colonel Accorsi, which I reported in my telegram of October 2, 12 noon, the Department will observe that the original plan has been considerably amplified.

¹ Not printed.

I have not made these reports because I believe that any arrangement will finally be consummated under the authority granted to the President, for I entertain no such belief. But I have felt that the Department would be interested in learning of these and all similar negotiations.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure—Translation]

Legislative Decree of October 28, 1919, Authorizing an Italian Loan to Ecuador

THE CONGRESS OF THE REPUBLIC OF ECUADOR

DECREES:

ART. 1. The Executive Power is authorized to make an *ad referendum* contract, in accordance with the following general bases:

First. The Government of Ecuador cedes to the company which the Government of Italy will organize, the monopoly which will be established on raw tobacco produced in the Republic of Ecuador.

Second. Said company will furnish the Ecuadorean tobacco industry all the raw material necessary to attend to the consumption requirements within the territory of the Republic. At the time of signing the contract there will be stipulated the bases in conformity with which there will be fixed each year the minimum price at which the company will purchase the raw tobacco, as well as the maximum price at which it will sell the raw tobacco to the Ecuadorean tobacco industry, and the manner in which any difference arising between the producers and the company will be settled. The Ecuadorean tobacco industry will be free within the territory of the Republic. The Executive Power may establish exemptions from duties on exports of tobacco in favor of dealers or merchants who up to the date of the approval of this Law shall have been engaged in said exportation for South America, in the quantity shown by the statistics of the Ministry of Hacienda.

Third. The company may not intervene in any manner in the formation, administration, and development of the national tobacco industry, nor in relation with the taxes placed upon said industry.

Fourth. The company may export all its raw or manufactured tobacco in the manner and form which it shall deem convenient, but it will not have the privilege of selling manufactured tobacco within the Republic unless so to do should be agreeable to the Ecuadorean dealers, in which event the sale will be subject to the provisions of Ecuadorean laws.

Fifth. The Government of Italy will open in favor of the Government of Ecuador a credit not exceeding forty million sucres, at the rate of 5 per cent interest per annum.

Sixth. This credit is destined exclusively to the following objects:

(a) Ten million sucres for the construction of the Esmeraldas-Ibarra-Quito Railroad, and a wharf in the Province of Esmeraldas, with access to said railroad.

(b) Ten million sucres for the construction of Puerto Bolivar-Cuenca, Puerto Bolivar-Loja Railroad, and a wharf in Puerto Bolivar. In the event of the construction of this railroad by the Chilean-Ecuadorean Syndicate, seven million of these ten million sucres will be utilized in the construction of the Sibambe-Cuenca-Loja-Macara Railroad, and three million sucres in the construction of the branch of the railroad from Puerto Bolivar to Zaruma via Santa Rosa.

(c) Five million sucres for the construction of the Guayaquil-Santa Elena Railroad, and a wharf in Santa Elena.

(d) One million sucres for the port of Pailon and public works of Esmeraldas; three million sucres for the construction of roads to the Oriente; one million sucres for a road from Quito to Bahia de Caraquez via Santo Domingo of the Colorados, and a wharf in Bahia de Caraquez; one million five hundred thousand sucres for the railroad from Bolivar to Los Rios; and five hundred thousand sucres for the dredging of the Babahoyo River; and

(e) Eight million sucres for the purposes which the Government of Ecuador may deem convenient, taking into consideration the vital needs of the nation.

Seventh. Said works will be constructed by Italian companies, guaranteed by the Government of Italy, and the construction will be effected in the least possible time, and in the best conditions, according to concrete studies and decisions which will be made in common.

Eighth. The works will be the exclusive property of the Government of Ecuador, to which the sections as they are constructed will be transferred, in order that the Government of Ecuador may place them in the public service.

Ninth. In order to supply the funds referred to in the sixth clause, the Government of Italy will establish in Quito a branch of one of the great Italian institutions of credit, in accordance with the banking laws of Ecuador. Said Italian banking institution will open in favor of the Government of Ecuador an account current for a sum not exceeding forty million sucres, for the objects above mentioned. Said bank will be charged with the duty of collecting the interest for the amounts which the Government of Ecuador shall receive in the account current and also with the collection of the amounts for the amortization of the credit.

Tenth. The Italian company will have the privilege of buying uncultivated lands, at the current market values, throughout the entire Republic for the cultivation of tobacco, and is authorized to bring to Ecuador specialists, sowers, harvesters, and dealers, in order to intensify, improve, and increase the production of tobacco. The transfer of ownership of these lands shall not be made without previous authorization from the Executive Power in each concrete case.

Eleventh. Should the company bring colonies of farmers for the production of tobacco or for other agricultural work, for the establishment of schools of Agriculture, or for the implantation of new industries which may employ Ecuadorean raw material, they will be given, *gratis*, in the zones which the Executive Power shall determine, all the uncultivated lands which they shall require. At the time of signing the contract there will be fixed the extensions of land which will be granted to each person or family, it being understood that the land conceded is solely private property and that those acquiring it shall be entirely subject to Ecuadorean laws.

Twelfth. The company will administer the monopoly of tobacco with entire independence, but the Government of Ecuador is authorized to establish oversight of the administration through means of an auditor, in order that it may know definitely the amount of profits of the company.

Thirteenth. The profits referred to in the preceding clause will be apportioned annually in the following manner: Fifty per cent for the amortization of the loan above mentioned; twenty-five per cent for the Government of Ecuador, and twenty-five per cent for the company.

Fourteenth. The companies of Italian nationality may obtain, if the Government of Ecuador deems it convenient, preference in contracts for the exploitation of forests and of petroleum and coal mines, etc., in the interior, on the coast, and in the Archipelago of Colon. (Galapagos Islands).

Fifteenth. At the time of signing the contract the period of its duration will be fixed.

Sixteenth. The differences which may arise in connection with or by reason of the contract shall not be subject to Diplomatic intervention, and will be settled by the Judges of Ecuador, in conformity with Ecuadorean laws.

ART. 2. With the approval of the foregoing bases by the contracting Governments, said Governments will designate special commissions to arrange the details of the contract to be made.

Given in Quito, etc. October 28, 1919.

[Approved November 3, 1919.]

822.51/275 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, December 11, 1919—10 a.m.

[Received December 12—12:01 a.m.]

Department's December 9, 1 p.m.² Contract for Italian loan will not be negotiated until arrival of another commission from Italy and any contract made must be approved by Congress. United States loan not being considered. I am of the opinion that recently enacted petroleum law has no relation to Italian loan. See my numbers 455 of November 5,² 466, of November 12 and 441 [458] of November 7.²

HARTMAN

822.51/277

The Acting Secretary of State to the Chargé in Italy (Jay)

No. 1074

WASHINGTON, February 25, 1920.

SIR: There is transmitted herewith for your attention a copy of Despatch No. 466, dated November 12, 1919, from the Legation of the United States at Quito, Ecuador, together with a copy of its enclosure reporting a prospective Italian loan to the Government of Ecuador.³

You are instructed to ascertain and report to the Department the truth concerning the matter, especially the supposed connection of the Italian Government therewith.

If you learn that the Government of Italy is contemplating making, guaranteeing, or in any way sponsoring the supposed loan, you are instructed discreetly to intimate to the proper official the fact that for several years past the Government of Ecuador has been in default on the service of the Guayaquil to Quito Railway bonds which are guaranteed by the Government of Ecuador and to the service of which the whole of the customs revenues of Ecuador are pledged. You will also at your discretion intimate that the Government of the United States looks with disfavor on any increase in the foreign debt of Ecuador which does not provide for paying the arrears and in future meeting the service of the bonds of the Guayaquil to Quito Railway Company.

I am [etc.]

For the Acting Secretary of State:

ALVEY A. ADEE

² Not printed.

³ *Ante*, p. 175.

822.51/292

The Chargé in Italy (Jay) to the Secretary of State

No. 1581

ROME, April 14, 1920.

[Received May 22.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1074 of February 25th enclosing copy of a despatch from the American Legation at Quito in regard to a prospective Italian loan to the Government of Ecuador. I may mention that the Department's Instruction was only received by the Embassy on March 27th.

The Commercial Attaché of the Embassy, Dr. Alfred P. Dennis—an especially efficient official—had already reported in December to the Department of Commerce in regard to the proposed arrangement by which Ecuador should receive an Italian loan in exchange for the concession to an Italian Corporation of the tobacco monopoly, and he has since been in correspondence with the Department of Commerce on the subject.

Upon his calling early in April at my request on the Head of the Italian Government Tobacco Monopoly (Signor Alibrandi) with whom he is on good relations, Dr. Dennis was informed by Signor Alibrandi that he knew nothing of such an arrangement.

Not feeling however very certain that some such loan might not be contemplated and in view of the final paragraph of the Department's Instruction under acknowledgement which left action to my discretion, I have sought an opportunity of informally discussing the matter at the Foreign Office.

I have there heard in substance as follows: The Italian Mission which visited Ecuador some months ago made certain proposals but no decision has yet been reached. The proposed Tobacco Monopoly in return for an Italian loan has been definitely discarded as the tobacco of Ecuador has been found unsuitable for Italian consumption.

However an Italian loan—not made directly by the Government—but by a group of Italian financiers under the auspices of the Italian Government is under consideration. I was assured the Italian Government would not guarantee the loan but would feel bound to approve and support it as the object of the loan would be to secure "economic benefits" and "raw materials" for Italy. My Official informants at the Foreign Office—the Director General of Political Affairs and his Colleague the Director General of Commercial Affairs—were both somewhat vague as to the economic benefits and raw materials anticipated, but emphasized the absolute need for Italy to obtain raw materials and give employment to her laboring population.

The establishment, under the auspices of the Italian and Mexican Governments, of a steamship service between Italy and Mexico which has recently been reported to the Department by both the Embassy and the Commercial Attaché, is primarily for the purpose of enabling Italy to obtain raw materials.

Upon my intimating that for several years past the Government of Ecuador has been in default on the service of the Guayaquil to Quito Railway bonds which are guaranteed by the Government of Ecuador and to the service of which the whole of the customs revenues of Ecuador are pledged, I was told by the Director General of Political Affairs that this Railway Company has recently informed the Italian Ambassador in Washington of its keen desire to sell the Railway.

I have nevertheless intimated verbally but clearly and unmistakably to the Ministry for Foreign Affairs that the Government of the United States looks with disfavor on any increase in the foreign debt of Ecuador which does not provide for paying the arrears and in future meeting the service of the bonds of the Guayaquil to Quito Railway Company.

I have [etc.]

PETER A. JAY

822.51/296

*Memorandum by Mr. Johnson, Division of Latin American Affairs,
Department of State*

[Extract]

[WASHINGTON,] May 19, 1920.

Notes taken of a conference between Mr. Davis, Assistant Secretary of the Treasury, Doctor Rowe,⁴ Ecuadorian Minister, and Señor Váscenez⁵ in Mr. Davis' office at 11 a.m., May 19, 1920.

Present, the above named and S. Johnson.

Mr. Váscenez outlined his object—to obtain a small loan from the Mercantile Bank of the Americas in New York of about \$2,500,000—which proposition the bank has received favorably, but informed Mr. Váscenez they could give no definite answer until they had the approval of the State Department. This project includes the establishment of a new bank of emission in Quito which would be an Ecuadorian bank, but in which the American syndicate would have an interest. The same syndicate furnishing the money would be given the opportunity to spend it on various public works in Ecua-

⁴ Leo S. Rowe, Chief, Division of Latin American Affairs, Department of State.

⁵ R. Váscenez Gómez, President of the Chamber of Commerce of Quito.

dor, thus making a double profit. Mr. Váscónez himself would have a considerable share of the capital of this bank.

In answer to a question Mr. Váscónez said that Ecuador owed over \$4,000,000 in back interest on her foreign debt which had gotten into default not because of lack of the desire to pay it but because of the financial difficulties that Ecuador encountered because of the European war. Secondly, that a revolution which occurred about four years ago caused the Government an expense of over \$2,000,000.

Mr. Váscónez stated that secondarily his object is to procure a large loan, or rather a conversion of the present indebtedness of Ecuador.

Mr. Davis asked whether the problem could not be solved by enforcing new taxes. Mr. Váscónez replied that the method would be a conversion of the public debt.

He handed to Mr. Davis a typewritten outline of his own plan for such a conversion of the debt by an American syndicate.

Mr. Váscónez said in regard to the difficulty of obtaining a loan that a creditor (referring to the United States) should not discredit his debtor.

In reply to a question from Mr. Davis as to why propose another bank of emission when there are already four established, Mr. Elizalde^a remarked that banks are the most profitable kind of enterprise in Ecuador.

Mr. Váscónez remarked that he was acting under instructions from the Ecuadorian Government. (He appeared to be much more interested in the bank of emission plan than in the conversion plan.) He was anxious to have some expression from Mr. Davis as to the attitude of our Government toward both propositions.

Mr. Elizalde said that Brown Brothers in New York have proposed a conversion to take care of Ecuador's entire public debt.

Mr. Davis said that first hand he saw no objection to the small loan and bank of emission proposed by Mr. Váscónez, also that his first impression of the conversion proposition is good, but that he will consult the Secretary of State. That if the bankers are willing he sees no reason for objection by the United States.

Mr. Váscónez said that he appreciated having been given this conference with Mr. Davis and for his expression of views, and that on the strength of it he will negotiate further details with Brown Brothers for a concrete proposition.

S[TEWART] J[OHNSON]

^a Señor Dr. Don Rafael H. Elizalde, Ecuadoran Minister at Washington.

822.51/292

The Secretary of State to the Ambassador in Italy (Johnson)

No. 33

WASHINGTON, June 19, 1920.

SIR: In a despatch from our Legation at Quito there are transmitted several clippings from Ecuadorean newspapers of May 4, 1920,⁷ in which it is reported that the "Accorsi Contract" has been approved by the Italian Parliament.

Referring to Mr. Jay's despatch No. 1581, of April 14, 1920, in regard to this same matter, the Department requests you to endeavor to obtain and transmit to it a copy and translation of the reported Act of Parliament, together with a copy and translation of the Accorsi project.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

822.51/293

The Minister in Ecuador (Hartman) to the Secretary of State

No. 550

QUITO, June 26, 1920.

[Received August 3.]

SIR: Referring to my despatch No. 466, of November 12, 1919, with which I transmitted to Department triplicate copies, with translation, of a law passed by Congress and approved November 3, 1919, authorizing the President to make an *ad referendum* contract for a loan to Ecuador with a company which the Government of Italy will organize, I have the honor to inform the Department that the newspapers of this morning publish a cable from Rome under date of June 23, of which the following is a translation:

Rome, June 23. The General Company, which will carry out the provisions of the contract proposed to Ecuador by Colonel Accorsi, has just been organized. This company, which is organized for the special object indicated, was formed with the approval and under the responsibility of the Italian Government, in whose name the contract will be made.

The voyage of the various commissions, of which Colonel Accorsi will be a member, will take place in July.

It is expected that the Government of Ecuador will promptly designate the corresponding commissions, in order to hasten the performance of the definite contract.

The entire law mentioned will be of interest to the Department, but I particularly invite attention to the 14th section of Article 1, the translation of which reads as follows:

⁷ Only the clippings have been found in Department files.

Fourteenth. The companies of Italian nationality may obtain, if the Government of Ecuador deems it convenient, preference in contracts for the exploitation of forests and of petroleum and coal mines, etc., in the interior, on the coast, and in the Archipelago of Colon. (Galapagos Islands).

It appears to me that this section is open to the objection that it is a discrimination against the nationals of all countries except Italy.

I also refer the Department to my despatch No. 455, of November 5, 1919,⁹ and to previous correspondence relating to the same subject, and to my despatch No. 481, of December 13, 1919.⁹

If there be any further developments, I will advise the Department.
I have [etc.]

CHARLES S. HARTMAN

822.51/295

The Chargé in Italy (Crosby) to the Secretary of State

No. 106

ROME, August 4, 1920.

[Received August 25.]

SIR: With reference to the Department's Instruction No. 33, of June 19th, 1920, and previous correspondence, and to the second paragraph of my telegram No. 290 of July 29th, 11 a.m. [noon],⁹ I have the honor to enclose, herewith, translation-copy of a Pro-Memoria (No. 30162/177) of August 3rd, from the R[oyal] Ministry of Foreign Affairs, regarding a loan from the Italian Government to the Republic of Ecuador.

I have [etc.]

SHELDON LEAVITT CROSBY

[Enclosure—Translation]

The Italian Ministry of Foreign Affairs to the American Embassy

PRO MEMORIA

By Legislative Decree of October 28th, 1919, the Government of Ecuador was authorized by Congress to stipulate a contract *ad referendum* for the ceding to an Italian Company (which it was there considered could be organized by the Royal Government) of the tobacco monopoly, railway construction and other public works, against a loan for the sum of the relative works.

The contract remained in the state of project, the Royal Government having assumed no undertaking in regard thereto.

The favorable disposition shown by the Government of Ecuador towards Italy however encouraged some Italian manufacturers and business-men to form a Company, who will proceed to Ecuador,

⁹ Not printed.

exclusively at their own expense and on their own account, with the principal object of developing the natural resources of that country, in accordance with conditions and articles which it will be considered necessary to stipulate directly with the local authorities.

The interests of this Company will certainly have the aid and protection which all national interests abroad in general should have from the Royal Government.

ROME, August 3, 1920.

822.51/299a: Telegram

*The Acting Secretary of State to the Minister in Ecuador
(Hartman)*

WASHINGTON, October 8, 1920—6 p.m.

35. A. F. Lindberg is proceeding to Ecuador as the representative of Brown Brothers and the Mercantile Bank of the Americas. Department has been advised by Brown Brothers of their negotiations with the Government of Ecuador for conversion of foreign debt. You may afford Lindberg all proper assistance and facilities in his negotiations with the Government.

DAVIS

822.51/312

Mr. C. H. Hand, Jr., of Brown Brothers and Company, to the Acting Chief of the Division of Latin American Affairs, Department of State (Welles)

NEW YORK, October 20, 1920.

DEAR MR. WELLES: I am enclosing herewith a memorandum showing the plan which we thought might be followed in refunding the Ecuadorian foreign debt,¹⁰ as I promised I would send you upon my last visit to Washington when you were so kind as to say that you would cable the Legation at Quito to the effect that Mr. Lindberg would have this matter in hand for us and notify the Legation to cooperate with him.

Very truly yours,

C. H. HAND, JR.

[Enclosure]

Plan for the Refunding of Ecuador's Foreign Debt

The Republic of Ecuador will authorize an issue of bonds to the amount of say \$20,000,000, interest and principal to be payable in

¹⁰ Based on a plan submitted to the Department July 15, 1920 (file no. 822.51/302).

dollars in New York and London, to mature in not less than seven-teen years from date of issue, and to be retired by a cumulative sinking fund operating by annual drawings at par or purchases in the open market under par; rate of interest and sinking fund to be left to the discretion of the Minister of Finance; rate of interest on bonds issued to convert old bonds to be 8%; rate of interest on additional bonds to be left undetermined except for the fixing of a maximum if desired; rate of sinking fund on entire authorized issue to be 2 or 3% per annum. The Minister of Finance will be authorized to issue such bonds in an amount sufficient to convert on bases approved by him, the bonds of the various present issues; additional new bonds to be issued by the Republic only on the following conditions:

(a) If in the three consecutive fiscal years preceding, the average of the total of the revenues of the Republic shall exceed all Government expenditures for that year, including in such expenditures service of the new bonds and charges incidental thereto as set out below and the service of the old bonds (to such an extent as may be agreed upon with the holders of such old bonds or with a majority of such holders) and if the average of the total customs revenues for such three preceding fiscal years shall have amounted to more than 150% of the charges thereon, additional bonds may be issued to an amount the annual service of which shall not require more than one-half of such excess total revenues and on condition that the total of such new annual service, added to the charges then existing, shall not exceed 66 $\frac{2}{3}$ % of the total customs revenues.

(b) Even though the conditions set out in (a) are not present, additional bonds may be issued upon the approval of the bankers.

The new bonds will be secured by a pledge, creating a property right immediately effective, to a United States bank or trust company or other institution to be named by the bankers, as trustee, of the entire export and import revenues, including all taxes collectible by the customs house, subject to such other prior liens as there may be.

The Republic will provide simultaneously with the issue of the new bonds that the export and import revenues shall, so long as any of the new bonds may remain outstanding, be payable only in revenue warrants of a character and form to be determined; warrants to the full estimated amount of the proceeds of such revenues for the life of the new bonds to be issued in convenient denominations to a United States corporation (Connecticut, Maine or Delaware) as depository, to be designated by the bankers, to be formed for the purpose, and whose charter shall be sufficiently broad to permit the establishment of a bank in Ecuador. The depository will maintain such offices in Ecuador as may be necessary and perform the duties hereinafter set out. The depository will sell to exporters

and importers revenue warrants at par, such warrants to be valid only upon counter-signature by the depositary, and to be redeemable by the depositary at par, at any time within four months after the date of issuance thereof. The customs officials will mark upon the back of the cancelled warrants the customs entry number referring to the shipment lot on which such warrant is paid, or if paid for some incidental tax, this fact shall be noted upon the warrant. Cancelled warrants will be returned to the depositary on the day of their receipt, or if this is not possible, on the next business day. Daily statements of the operation of the custom house will be rendered to the depositary, including a complete copy of the customs house entries for the day. Certified manifests of each outgoing and incoming steamer received during each day will be delivered by the customs officials to the depositary. Provision should be made for inspection at border points to prevent smuggling if necessary and possible. (Mr. Lindberg will suggest such additions and changes to the provisions hereinabove set out for the purpose of checking the warrants received against commodities exported and imported as he may deem feasible and advisable after he has examined the situation on the spot.)

In any case where the duty on a shipment is not possible of exact payment in warrants, because of the presence of a fractional amount less than the smallest denomination in warrants, the next higher denomination in warrants shall be delivered to the customs authorities in payment of the fractional amount and the customs authorities shall note on the back of such warrant the fact that it represents excess payment and the amount of such excess, giving the details as to the shipment, the amount and date of such shipment, the name of the party delivering such warrant, etc. Such warrant shall, after cancellation, be returned to the depositary in company with any other warrants received in connection with such shipment as a separate item. The party making such excess payment in warrants to the customs house, upon application at the office of the depositary, shall receive reimbursement in cash for the amount of excess. (Mr. Lindberg will look into the possibilities of handling this situation in a more simple manner when on the spot.)

The proceeds of the sale of warrants will be disposed of as follows:

First, the depositary will deduct and pay to itself monthly a commission of . . . % of the total amount of all warrants sold during the preceding month and, in addition, an amount necessary to reimburse itself for its expenses during the preceding month.

Second, the depositary shall deduct and pay monthly to the Minister of Finance an amount sufficient to cover the cost of collection of customs during the preceding month, as determined by a state-

ment of the Minister of Finance, said amount, in no case, to exceed 5% of the gross amount of such collections.

Third, the depositary shall set aside such amount as may be decided upon as a reserve for the redemption of outstanding warrants.

Fourth, so long as any of the old bonds remain undeposited and outstanding, the depositary shall deduct such amounts and at such times, as may be agreed upon in the contract between the trustee as holder of the old bonds and the Republic, for service of the old bonds, and, also in accord with such agreement, such amounts shall be applied as follows: First, to the remittance monthly to the fiscal agent of the new bonds of such proportion of the interest and sinking fund on the new bonds and of the charges for the service of these bonds so that the entire amount necessary for payment of interest at the next interest date and the semi-annual proportion of sinking fund and the corresponding proportionate amount of charges for service shall be in the hands of the fiscal agent at least one month prior to the semi-annual interest date; Second, the depositary shall next deduct and remit to the bankers monthly an amount equal to one-twelfth of the sum of the commission to be paid to the bankers in compensation for their services in negotiating the conversion and the amount of their expenses in connection therewith. (When the commission and expenses of the bankers shall have been paid in full, this application of the proceeds of the warrants shall, of course, thereupon cease.)

Simultaneously with the deduction by the depositary of amounts for interest and/or sinking fund on any class or issue of old bonds, the depositary shall deduct a proportionate amount corresponding to the amount of the bonds of such old class or issue which shall not be deposited with the trust.

Fifth, if the amount to be deducted by the depositary for the service of old bonds shall at any time not be sufficient to meet the items set out in "First" and "Second" of "Fourth" then the depositary shall deduct such further amounts as may be necessary to make up the deficiency and shall apply such amounts to these purposes in the order established above.

Sixth, at the end of each month the corporation shall pay to the Minister of Finance any balance which may remain in its hands less such amount as may be necessary to equal in one year one-fourth of the amount of the service of the new bonds to be retained by the depositary for the purpose of a reserve for the future service of the bonds of the Republic, such deduction to continue for four years or until a reserve equal to the amount of one year's service of the new bonds shall have been accumulated. Such reserve shall be used only in case the revenues on hand at any time are not sufficient to meet the charges set out above and in the event that at any time it shall become necessary to use all or any part of such reserve, similar deductions shall thereafter be again made by the trustee until the reserve shall have been completely renewed.

In the event that all of the bonds of the old issues shall at any time be deposited with the trustee, the deductions for account of

interest on old bonds above set out shall cease and the proceeds of the warrants shall be applied by the depositary to the ultimate purposes set out above, in accordance with the agreement between the Republic and the trustee as holder of the old bonds by which the old bonds release their lien on the revenues pledged to the new bonds.

The Republic will agree with the trustee, as holder of the deposited bonds of the old issue, that, in payment of accrued and/or current interest and/or proportionate amounts of accrued and/or current sinking fund on such bonds of the old issue in the order of priority of such liens as they may possess upon the customs, the depositary shall deduct and pay to the trustee each month from the proceeds of the sale of warrants, after deduction of the commission and expenses of the depositary, the expenses of collection and the reserve for redemption, an amount sufficient to meet one-fifth of the current six months' interest and one-tenth part of the annual sinking fund due on the new bonds, together with proportionate amounts of the charges for the service of such bonds and the commission of the fiscal agent, and until the commission of the bankers shall have been paid, one-twelfth part of the commission of the bankers, or such part of the total of the above items as the total amount of accrued and/or current interest and proportionate amounts of sinking fund on the deposited bonds of the old issue shall equal, and it shall be further agreed that such amounts shall be turned back to the depositary and applied for the payment of interest and sinking fund and service charges on the new bonds and for the payment of the commission and expenses of the bankers.

The agreement shall further provide that if and when all of the bonds of the old issues shall have been deposited with the trustee, then the trustee will release any lien such bonds may have on the customs revenues in favor of the bonds of the new issue.

Export and import duties are not to be pledged for any other proposition without the consent of the bankers and rates of such revenues are not to be changed without the consent of the bankers.

As a further security the bankers will, under authority of the Republic deposit with the trustee of the new bonds the old bonds obtained for the Republic through conversion or purchase. Provision will be made that all rights to interest on such bonds due from the railroad and moneys paid for the redemption or purchase of bonds by the sinking fund shall be vested in the Republic unless in any six months' period the proceeds from revenue warrants shall not, after application in due order of priority be sufficient to pay the interest and sinking fund on the new bonds in the method provided, in which case all such rights shall be vested in the Trustee for the new bonds

who shall collect such moneys and apply them to the interest on the new bonds until the deficiency has been cured. Upon retirement of all of the new bonds the trustee of these bonds shall deliver the old bonds to the Republic and all rights of the trustee in such bonds shall cease and determine.

The Minister of Finance shall appoint the bankers agents of the Republic to negotiate for an exchange of the new bonds for bonds of the various old issues on bases to be agreed upon between the bankers and the Financial Minister; the bankers to have entire discretion at all times as to the advisability of going forward with the operation; all powers necessary, under the circumstances, to satisfactorily negotiate for such conversion, including the power to incur reasonable expenses, to be reposed in the bankers.

It may be deemed advisable by the bankers at some time during the course of the operation to purchase certain or all of the old bonds from the present holders; the bankers would have entire discretion as to this but would act only after agreement with the Financial Minister; in such case the funds advanced by the bankers would constitute a loan from the bankers to the Republic for which the bankers would be reimbursed by new bonds to be taken by the bankers on bases to be agreed upon.

The bankers will exert their best efforts to effect a conversion of the bonds on the bases determined.

Upon notification by the bankers to the Minister of Finance at any time within one year after the signing of the primary contract between the bankers and the Republic of Ecuador, that contracts or options for the conversion or purchase of sufficient old bonds or new bonds have been entered into so that in the opinion of the bankers the operation will be successful, the Minister of Finance will issue to the bankers new bonds to the necessary principal amount. From time to time thereafter, as the bankers shall notify the Minister of Finance that they have entered into further contracts for the conversion or purchase of any of such old bonds within the bases set by the Minister, the Minister shall issue further bonds to effect such conversion or to obtain the funds for such purchase. The bankers will thereupon effect the exchange or purchase as the case may be and upon receipt of the old bonds will deposit the same with the trustee as security for the new bonds.

Interest on new bonds accrued prior to the date of their exchange for old bonds will be retained by the depositary and credited to the surplus hereinbefore provided for.

The bankers will receive as commission for their services in cash . . % of the par value of the old bonds exchanged to be paid out of proceeds of warrants as stated before; the bankers to be reim-

bursed in cash for any expenses which they may incur in the entire negotiation, also to be repaid out of the proceeds of warrants, as stated before, the bankers' statements as to expenses to be accepted as final; in case conversion should fail of accomplishment, bankers to be reimbursed in cash for any expenses which they may have incurred. (Method to be worked out by Mr. Lindberg on the spot.) The bankers will be appointed by the Minister of Finance as fiscal agents of the Republic and receive for their services in this connection a commission of 1% per annum on amounts disbursed for interest and sinking fund.

All disputes or disagreements between the Republic and the trustee or the bankers or the fiscal agent or the depositary will be submitted to the arbitration of a member of the Ecuadorian section of the International High Commission and a member of the United States section of the International High Commission, or their nominee, whose decision shall be final and binding to all parties. In the event that these two shall disagree, they shall choose a third party, an officer of the International High Commission or his nominee or the President of the Institute of International Law or his nominee whose decision shall be final and binding on all parties.

AFFAIRS OF THE GUAYAQUIL AND QUITO RAILWAY ¹²

Resumption, on March 6, 1920, of Daily Deposits for the Service of the Railway Bonds but in Insufficient Sums—Concern of the American Government over the Ecuadoran Government's Delay in Remitting the Accumulated Deposits

422.11G93/1071a : Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, January 31, 1920—2 p.m.

4. Minister of Ecuador at Washington, in informal conversation stated that daily quotas for payment of interest on railway bonds would be resumed without delay. Inform Department whether such payments are being made and if not, when they will begin.

LANSING

422.11G93/1073 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, February 3, 1920—10 a.m.

[Received February 4—10:15 a.m.]

6. Department's January 31, 2 p.m. Yesterday afternoon the Minister for Foreign Affairs informed me that daily deposits had

¹² Continued from *Foreign Relations*, 1919, vol. II, pp. 171-200.

been resumed and that he would answer my note, number 347,¹³ in two or three days. I will cable its substance when received.

HARTMAN

422.11G93/1077: Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, February 24, 1920—4 p.m.

[Received February 26—12:20 a.m.]

8. My February 3, 10 a.m. Yesterday afternoon I received a note from the Minister for Foreign Affairs in answer to my number 347 of December 2, 1919¹³ of which following is the substance:

He asserts that the subject is not one for diplomatic intervention. He states desire of Ecuador to fulfill its obligations but says that it has been impossible to fulfill all of them because of complications and conditions enumerated growing out of war. He encloses table prepared by Ministry of Finance showing 1,044,000 sucres of revenue allotted to the service of railway bonds during first 10 months of 1919. Adding a proportionate amount for November and December will total 1,250,000 sucres for the year 1919. In the same period amounts remitted aggregated 125,500 pounds which amount does not cover annual coupons. Owing to the intense fiscal disturbances the proceeds from the revenues allotted to service of bonds have not produced a greater amount. Regarding present year the Government has already sent 20,000 pounds sterling to Glyn Mills Currie Company for service of the bonds and will endeavor to continue remitting successive amounts in the course of the year for this account and for that of the preferred bonds.

Referring to the salt certificates he says that the Minister of Finance has provided that from the 24 of January of this year the treasurers of the four largest provinces will remit semi-monthly to the Commercial and Agricultural Bank of Guayaquil the proceeds of the receipts which during the current year shall be derived from the sale of salt after defraying expenses and that as soon as these deposits reach an amount sufficient for interest and amortization of each half-year they will be remitted upon the order of the Ministry. Thus it is calculated that for this year there will be remitted the amount of 191,291 sucres which is the amount fixed in the Government budget.

Referring to the deposit of 68,000 sucres by railway company to be applied to the bond service in accordance with the agreement of

¹³ Not printed; see Department's instruction no. 225, Oct. 4, 1919, *Foreign Relations*, 1919, vol. II, p. 196.

April 6, 1919,¹⁴ according to which Ecuadorean Government is obliged to transfer to said company for equipment and improvement of traffic, a sum equivalent to such deposit, he says that the Government has agreed in effect to give to the company on account of a credit which the latter claims for damages caused to it sums equal to the deposits which were invested in improvements of the railroads; but that for reasons beyond the control of the Government it has not been possible to comply with this thus far since according to the laws of consolidation and public credit in order that a claim of previous years may be binding upon the Government, it is necessary that it be liquidated by the tribunal of accounts which up to the present time has not been accomplished as the company was unable to furnish proofs of this claim and the Ministry of Interior undertook to complete the records. Notwithstanding this fact the tribunal of accounts of Guayaquil proceeded with the examination and ascertaining that the proofs were not only deficient but that the accounts of Treasury of Guayas which were indispensable for the liquidation had been destroyed in the fire of 1917. The Minister of Interior applied to Congress for a special decree in order to surmount the difficulty, but Congress did not act and the Government will recommend to the next Congress the prompt dispatch of the matter. He declares that railway company has not applied its surplus profits to pay interest, thereby imposing that obligation upon the Government.

Regarding unpaid balance of 80,000 pounds by the Government from sale of cacao in 1918 he refers to his explanation in a former note to the error which caused the belief that the Government had offered eight hundred and some odd thousand dollars instead of the same amount of sucres. He then reiterated the sincere intention of the Government to fulfill its obligations to the bondholders and the company and says that the Government is at present seeking ways and means of paying the debts due, means which cannot be other than the contraction of a loan in order to prepare upon these basis a financial plan in cooperation with Congress, which will enable the Government punctually to make payments in the future. He says that the efforts to obtain a loan in the United States have been thwarted by the bondholders and the company in an endeavor to discredit financial standing of Ecuador in London and New York and cites attitude of the council of foreign bondholders in connection with the assembling of the Financial Congress in Washington in proof thereon.

He closes by again complaining that the railway company has failed to fulfill its obligations. Full report by mail.

HARTMAN

¹⁴ See memorandum on Advisory Commission, Guayaquil & Quito Ry. Co., Apr. 10, 1919, *ibid.*, 1919, vol. II, p. 182.

422.11G93/1078: Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, February 24, 1920—5 p.m.

7. Your February 3, 10 a.m.

Cable Department date of resumption of daily deposits, and whether their payment has been continued to present date.

POLK

422.11G93/1079: Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, February 29, 1920—6 p.m.

[Received March 1—1:42 p.m.]

9. Department's February 25 [24], 5 p.m. Daily deposits not resumed. Evidently we misunderstood the Minister for Foreign Affairs. Deposits mentioned by him were semi-monthly deposits referred to in his note of which I cabled the substance February 24.

HARTMAN

422.11G93/1081: Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, March 6, 1920—3 p.m.

[Received March 8—11:08 p.m.]

11. Department's March 3, 6 p.m.¹⁶ In an interview with the Minister for Foreign Affairs the inquiry was made and answer given through interpreter as usual, the Minister stating that deposits had been ordered and I first learned from his note ¹⁷ that he referred to salt deposits and not to the usual daily deposits. Relying on our understanding of what he said I sent my telegram of February 3, 10 a.m., and did not inquire from depository banks in Guayaquil.

When I learned that the information cabled was incorrect I sent my telegram of February 29, 6 p.m.

In an interview with him this morning he reaffirmed the statements in his note regarding salt deposits and said that the Minister of Hacienda is now in Guayaquil with instructions to obtain and remit to London 20,000 pounds. He states he will notify me when the remittance is made. I have not failed and will not fail to keep in close touch with the situation and to keep the Department fully informed. Full report by mail.

HARTMAN

¹⁶ Not printed.

¹⁷ Not printed; see telegram no. 8, Feb. 24, 1920, from the Minister in Ecuador, p. 192.

422.11G93/1081: Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, March 10, 1920—6 p.m.

9. Your March 6, 3 p.m.

Ecuadoran Minister today informed Department that he had received a cable from President of Ecuador to the effect that daily deposits had been resumed. Verify this information and cable Department.

POLK

422.11G93/1083: Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, March 18, 1920—11 a.m.

[Received March 19—2:22 p.m.]

14. Department's number 9, March 10, 6 p.m., received yesterday. See my number 12, March 14, 11 a.m.¹⁸

Daily deposits have been resumed since March 6th in accordance with Executive decrees of March 8th and 10th upon following basis: twenty two percent of import duties received by Treasury of the Province of Guayas and eighteen and ninety two hundredths per cent of import duties received by Treasurers of Provinces of Pichincha, Azuay, El Oro, Manabi and Esmeraldas has been ordered deposited Commercial and Agricultural Bank of Guayaquil for the service of the railway bonds.

The Government claims in the decrees that these percentages are, quoting, equivalent to the forty three and seven [omission?] per cent and the forty five per cent additional duties [required for the service of?] the bonds of the Guayaquil and Quito Railway and which were being collected by virtue of laws in force on the date on which the adjustment contract was made between the Government and the said railway.

Note received yesterday from the Minister for Foreign Affairs informs me that since these deposits are now being made the Minister of Hacienda has suspended negotiations which had been initiated to procure an additional loan of 3,000 pounds to remit to London. See my number 11, March 6, 3 p.m.

Commercial and Agricultural [Bank] of Guayaquil reports daily deposits being made since March 6 aggregating 12,128 [19,128]¹⁹ sucres to and including March 16. Full report by mail.

HARTMAN

¹⁸ Not printed.

¹⁹ Total as corrected in the Minister's telegram no. 17, Mar. 20, 1920 (file no. 422.11G93/1085).

422.11G93/1082: Telegram

*The Acting Secretary of State to the Minister in Ecuador
(Hartman)*

WASHINGTON, March 19, 1920—6 p.m.

11. Your March 14, 11 a.m.²⁰

Do daily deposits now being made amount to 1/365th of total annual amount due on railroad bonds? Interview Government, railroad and banking authorities and cable full report.

POLK

422.11G93/1087: Telegram

*The Minister in Ecuador (Hartman) to the Acting Secretary of
State*

QUITO, March 22, 1920—9 a.m.

[Received 2:55 p.m.]

18. Department's March 19, 6 p.m. Daily deposits do not amount to one three hundred sixty fifth of total annual amount due on railroad bonds. See my telegram number 17 March 20th, 3 p.m., for amount deposited and full report.²⁰

HARTMAN

422.11G93/1087: Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, March 25, 1920—1 p.m.

13. Your March 22, 9 a.m.

What proportion of one three hundred sixty fifth do daily deposits amount to. Department has requested Consul Guayaquil to make weekly inquiry as to deposits and suggest that you visit Guayaquil and familiarize yourself with Governments methods of making deposits. Cable full report.

COLBY

422.11G93/1089: Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, March 26, 1920—5 p.m.

14. Consul Guayaquil cables officials refuse to furnish him information regarding daily deposits. After communicating with Consul request Minister for Foreign Affairs for explanation of refusal.

²⁰ Not printed.

If daily deposits do not amount to sum provided for in 1908 agreement,²¹ inquire reason of Foreign Office. Cable report.

COLBY

422.11G93/1092: Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, March 28, 1920—4 p.m.

[Received March 29—4:50 p.m.]

20. Department's March 25th, 1 p.m. Total deposits of 30,365 sucres from March 6th to March 23rd inclusive as reported in my number 19 March 26th, 9 a.m. [*p.m.*],²² would average 1,687 sucres each day or about one third of the amount necessary for the daily bond service.

Official estimate in budget for the year places revenues from import duties for the year at 8,038,460 sucres.

On basis of budget probably nine tenths or 7,200,000 sucres in round numbers would be collected at Guayaquil and pass into the Treasury of Guayas and be [*by?*] this would produce 1,584,000 sucres or \$744,178 at the present Government rate of exchange. The other one tenth or 800,000 sucres would be subject to the eighteen and ninety two hundredths per cent deposit provision and would produce 151,360 sucres or \$69,061 making a total of \$815,239 which is \$44,501 less than the necessary amount to meet the annual interest.

However, I seriously doubt whether the estimated income from import duties will be realized or even be approximated. I shall be agreeably surprised if it reaches 6,000,000 sucres. I am investigating Government methods of deposit through officials here and will proceed to Guayaquil in a few days if necessary and investigate and report by telegraph from there.

Friday afternoon I requested of the Minister of Foreign Affairs that proper officials of the Ministry of Hacienda be instructed to furnish me said information and also information as to amounts daily deposits. He said that he had no objection to granting the request and would speak to Minister of Hacienda to that effect. Thus far [apparent omission] no known reason. To-morrow I will call on the Minister again and urge prompt compliance with my request. I received word from Consul General to-day that the Government and bank officials refuse to furnish data without orders from Finance Minister. Therefore I will on to-morrow comply with Department's telegram 14, March 25 [26], 5 p.m., and ask explanation of the refusal and why daily deposits do not amount to

²¹ For correspondence concerning 1908 agreement, see *Foreign Relations*, 1908, pp. 273 ff.

²² Not printed.

sum provided for in 1908 agreement. Will telegraph result of interview to-morrow.²³

HARTMAN

422.11G93/1111

The Minister in Ecuador (Hartman) to the Secretary of State

[Extract]

No. 525

QUITO, April 1, 1920.

[Received May 3.]

SIR:

In my telegram No. 21, of March 30, 5 p.m.,²⁴ I gave full account of an interview with the Minister for Foreign Affairs held on the previous afternoon, and mentioned a memorandum which I had presented as the basis of the interview. I enclose herewith a copy of that memorandum (Enclosure 1). In the same telegram I reported at considerable length the substance of the interview, but I am enclosing herewith a copy of a memorandum of the interview which I prepared upon my return to the Legation, which gives the interview more in detail (Enclosure 2.)

In my telegram No. 22, of March 30, 6 p.m.,²⁴ I sent a copy of a telegram from Consul General dated March 29, 4 p.m., giving information as to Government methods of deposits, the substance of which telegram follows:

The Collector receives all money, and at four o'clock each afternoon delivers it to the Provincial Treasurer. The latter makes deposits in bank before 5 o'clock, after dividing the money in accordance with the decree. A remittance on bonds will probably be forwarded to London each month.

In my telegram No. 24, of April 1, 12 noon,²⁴ I informed the Department that the Consul General reports total daily deposits, including March 31st, to be 42,856.52 sucres.

Eliminating Sundays there were 22 days upon which deposits were made. This makes an average of 1948 sucres deposited daily. But Sundays should not be eliminated. Paragraph 11 of Article 1 of modifications to said contract by Congress reads as follows: "In the same Article XVII, insert, 'there shall be deposited daily one three hundred and sixty fifth part, including holidays.'"

It is clearly contemplated by the contract of September 30, 1918 [1908], that the deposits should be made every day, and as amended by Congress it states, "In the event of there being no

²³ Telegram not printed; see despatch *infra*.

²⁴ Not printed.

deposit of the customs receipts on any day, owing to the said bank or banks being closed, or should the amount deposited on any day be insufficient to cover the said one three hundred and sixty-fifth part of the annual service, the deficiency shall at once be made good from the receipts of the day or days following."

In my telegram No. 25, of April 1, 2 p.m.,²⁵ I reported that the Under Secretary for Foreign Affairs had informed me that orders had been issued by the Minister of Hacienda to the officials and banks in Guayaquil instructing them to furnish all information desired regarding daily deposits to the Consul General or myself, and that I had notified the Consul General immediately and had received his report as to amounts deposited, which I had telegraphed to Department immediately in my No. 24, of April 1, 12 noon.²⁵

I will keep the Department fully informed of any further developments.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure 1]

The American Minister (Hartman) to the Ecuadoran Minister for Foreign Affairs (Aguirre Aparicio)

The American Minister respectfully salutes His Excellency the Minister for Foreign Affairs, and has the honor to present, for the consideration of His Excellency, the following:

This Legation is in receipt of a cable from the Department of State at Washington stating that it has been advised by the American Consul General at Guayaquil that officials of the Government of Ecuador in Guayaquil refuse to furnish him information regarding the daily deposits being made for the service of the bonds of the Guayaquil and Quito Railway. The Department has instructed the Legation to request of Your Excellency an explanation of such refusal.

While the Legation has not received any official information as to the amounts already deposited, it has received unofficial figures, which, if correct, show clearly that the daily deposits, unless very materially increased, will not nearly equal the sum necessary to pay the interest on said bonds as provided for in the agreement of 1908. My Government, therefore, instructs me to inquire of Your Excellency the reason why these deposits are not being made in sufficient amounts to pay said interest.

The Department of State has directed me to visit Guayaquil and ascertain what the Government methods of making deposits are, and what amounts are being deposited daily, but, in view of the

²⁵ Not printed.

refusal of the officials in Guayaquil to furnish this information to the American Consul General, I have felt that my visit might be without results, unless instructions were given by Your Excellency's Government to the Government officials and the banks in Guayaquil to furnish me with said information. I therefore respectfully ask Your Excellency to cause to be issued the necessary and proper orders to said officials and banks in Guayaquil to furnish me such information as may be requested regarding the methods of making daily deposits and the amounts of such deposits.

I would appreciate an early compliance with this request, as the Department of State desires to receive this information as soon as possible, and also to be advised of the reasons for the failure of the officials in Guayaquil to furnish said information to the Consul General, and the reasons for the daily deposits being inadequate to pay the interest on said bonds.

The American Minister respectfully tenders to His Excellency the Minister for Foreign Affairs the renewed assurances of his highest consideration.

QUITO, March 29, 1920.

[Enclosure 2]

Memorandum by the American Minister (Hartman) of an Interview with the Ecuadoran Minister for Foreign Affairs (Aguirre Aparicio) at the Foreign Office, March 29, 1920

I opened the conversation by saying that I had received cablegraphic instructions from the Department of State directing me to make certain requests of the Minister, and that in the interest of accuracy, I had reduced the matter to writing in the form of a memorandum, which Mr. Valencia²⁶ would translate and read in Spanish. This was done. The Minister listened attentively, and, when the reading was completed, he immediately made the remark that the requests were very depressing.

He stated that the refusal of the officials at Guayaquil to furnish the Consul General with the information was doubtless due to the fact that they had not been authorized to furnish it by their superior officers, and that if they had done so they would have violated their duty. I then asked him whether he would be willing to have the necessary orders issued so that the information would be furnished. He hesitated for a time, and said that the customary way to obtain such data was through the Foreign Office, but that he would speak to the Minister for Hacienda and see what he would do. I then called his attention to the paragraph in the memorandum regarding my contemplated trip to Guayaquil to obtain the desired informa-

²⁶ Isidora Valencia, an employee of the Legation.

tion, and said that in view of the refusal of the officials at Guayaquil to give the data to the Consul General, I feared that my visit would be without results, unless the necessary orders were given to those officials to furnish me the information desired, and I then asked him again whether he would be willing to arrange to have the necessary orders issued to enable me or the Consul General to obtain the data.

He again answered that he would speak to the Minister of Hacienda, and added that the Minister of Hacienda would certainly consult with the President before deciding. He also said the information could be obtained in Quito as well as in Guayaquil.

He then brought up the subject of our interview on last Friday, wherein I had requested the same information orally, and said that he had spoken to the Minister of Hacienda, and that he had said he would have full returns from all the provinces at the end of this month, and would then furnish the information regarding the amount of daily deposits.

Regarding the request for the reason why the deposits are not being made in sufficient amounts to pay said interest, he said that it is because the imports into Ecuador are far below what they were before the war, and far below the estimate of Congress in the preparation of the budget.

He then stated that the Minister of Hacienda was of the opinion that the estimates in the budget would not be realized, and that the present plan of daily deposits would not produce enough revenues to meet the interest, and that he had told the Congress that there would be a deficit of probably 3,000,000 sucres.

He also said that a plan was to be presented to the next Congress, designed to increase the revenues to an amount sufficient to meet the foreign debt and necessities of government.

He also said that, in view of the insistence of the Government of the United States for the resumption of deposits, Ecuador had acceded thereto and adopted the present plan of daily deposits, and abandoned their former policy of making remittances whenever able, and that he believed the former policy, if it had been continued, would have resulted in larger amounts being remitted than the present practice of daily deposits will make possible.

I then suggested that I would greatly appreciate an answer tomorrow (Tuesday), in writing to my memorandum of requests, but he replied that because of the proposed trip of the President and party, including himself, to the Colombian border on Wednesday, March 31, he would not be able to answer then, as his time would be fully occupied in other official work which must be done before his departure, but that the Minister of Hacienda would furnish the information at the end of this month.

422.11G93/1131 : Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, November 1, 1920—2 p.m.

39. No report has been received from you since your 67 September 8, 11 a.m.,²⁷ regarding daily deposits. Department informed by railway company that it fears deposits on hand may be withdrawn if remittances to London not promptly made. Report by cable on daily deposits and what, if any, remittances to London on account of railway bonds have been made. Report also your recommendations with reference to what representations, if any, should be made to Ecuadorean Government in the premises.

DAVIS

422.11G93/1142 : Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, November 4, 1920—noon.

[Received 11:30 p.m.]

75. Department's 39, November 1, 2 p.m. Government deposits as of October 30, account railway bonds 167,918 sucres; account salt certificates 53,333 sucres. 12,000 sucres corresponding to amount to be delivered to Glyn Mills Currie and Company by Ecuadorean Consul at Barcelona has been withdrawn. No remittance since those reported in my cipher telegram 63 [62], August 30, 2 [6] p.m.²⁷ Ministry of Hacienda informs me orally today that decision as to further remittances will be made in a few days. If further remittances not made in a few days, I suggest urgent request that they be made should be presented to Ecuadorean Government because I share the fears of railway company that deposits will be withdrawn. Norton²⁸ believes that an additional sum approximating forty thousand sucres has been withdrawn but he has no official information.

HARTMAN

422.11G93/1154

The Minister in Ecuador (Hartman) to the Secretary of State

No. 617

QUITO, November 22, 1920.

[Received December 28.]

SIR: I have the honor to confirm my telegram No. 77, of November 20, 11 a.m.,²⁷ wherein I reported total deposits to November 15,

²⁷ Not printed.²⁸ Laurence H. Norton, Secretary of Legation at Quito.

1920, on account of interest on Guayaquil & Quito Railway bonds, and salt certificates. The exact amount of those deposits is as follows:

Account of interest on railway bonds, S/.260,343.17
" " " " salt certificates, 65,263.37

As stated in my telegram, no remittances have been made, but I was informed on Saturday by Mr. Norton that the President of Ecuador had informed him that the failure to make remittance of these monies is due to the inability of the Government to buy exchange on London. Mr. Norton advised me that the President had assured him that no part of the sums deposited would be withdrawn, and that remittances would be made as soon as drafts on London could be purchased.

I have [etc.]

CHAS. S. HARTMAN

422.11G93/1148: Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, December 8, 1920—5 p.m.

41. Your 75, November 4 noon, and 77, November 20, 11 a.m.²⁹

The Department desires you to obtain an interview with President Tamayo and inform him that the failure of the Government of Ecuador to remit to London the sums due for the service of the Guayaquil and Quito Railroad bonds is causing this Government considerable concern. The Department is well aware of the present critical financial situation in Ecuador and has endeavored, as the President is doubtless advised, in every way possible to assist the Minister of Ecuador in Washington in his efforts to negotiate with American banking interests a solution of the difficulty. You may assure the President that his Government may continue to count upon the assistance of this Government in every way possible and proper, but that in its opinion the situation is rendered more difficult of solution by the failure of the Government of Ecuador to meet its obligations.

You may further discreetly advise the President that the attention of the Department has been drawn to an alleged interview with the President recently published in the *London Times*,³⁰ in which the President is quoted as favoring foreclosures of the railway by the British bondholders. If the President confirms the accuracy of this statement, you may make representations to him in accordance with the Department's previous instruction and advise him of the Department's regret at his attitude towards a legitimate American enter-

²⁹ Latter not printed.

³⁰ Sept. 7, 1920.

prise, the affairs of which are being carried on in accordance with the provisions of an award made by representatives of the Government of Ecuador and of the Government of the United States.³¹ You may also intimate to the President that such an expression of policy on the part of his Administration does not enhance the credit of the Government of Ecuador and is not likely to impress favorably the American bankers who have the proposed refunding loan under consideration.

DAVIS

422.11G93/1154 1/2

The Minister in Ecuador (Hartman) to the Acting Secretary of State

No. 624

QUITO, December 20, 1920.

[Received January 15, 1921.]

SIR: I have the honor to confirm my telegram No. 84 of December 18, 12 noon,³² reporting total deposits as of December 15, 1920, on account of service of Guayaquil & Quito Railway bonds, and Salt Certificates. The exact amounts of such deposits follow:

For service of Guayaquil & Quito Railway bonds.....	S/.404,954.47
For Salt Certificates.....	93,866.40

I further report that no remittances to London have been made.
I have [etc.]

CHAS. S. HARTMAN

422.11G93/1155

The Minister in Ecuador (Hartman) to the Acting Secretary of State

No. 627

QUITO, December 21, 1920.

[Received January 15, 1921.]

SIR: Referring to Department's telegrams No. 41 of December 8, 5 p.m., and No. 42 of December 13, 7 p.m.,³³ and to my telegram No. 81 of December 16, 4 p.m.,³² I have the honor to inform the Department that I had an interview with President Tamayo yesterday afternoon, which lasted about an hour, during which I fully complied with the instructions contained in Department's two telegrams above referred to.

³¹ See despatch no. 407, Dec. 11, 1908, from the Minister in Ecuador, *Foreign Relations*, 1908, p. 274.

³² Not printed.

³³ *Post*, p. 212.

In presenting the views of the Department regarding the cacao situation, I referred the President to the memorandum which I left with him in Guayaquil, dated December 6, 1920,³⁴ a copy of which I enclosed with my despatch No. 621 of December 14, 1920,³⁵ and emphasized the importance of his adopting the plan therein outlined. He expressed the opinion that it would be inconvenient to call an extra session of Congress before March or April, as he had some other matters to present to Congress which are not yet prepared, and because the Government is short of funds to pay the expenses of an extra session.

When I called his attention to the failure of his Government to remit the sums to London now on deposit for the service of the Guayaquil & Quito Railway bonds, he said that this failure to make remittances was due to the inability of the Government to buy British exchange at any reasonable price, and that as soon as exchange was obtainable at a fair figure the remittances would be made.

I then expressed the hope that none of the funds now, or hereafter to be, deposited would be withdrawn and used for other purposes. He assured me that none of these funds would be withdrawn or devoted to other uses.

I then called his attention to the endeavors of the Department to assist, in every way possible, Minister Elizalde in his efforts to negotiate with American bankers a solution of the difficult situation, and assured him that his Government "might count upon the assistance of" the Government of the United States "in every way possible and proper, but that in its opinion the situation is rendered more difficult of solution by the failure of the Government of Ecuador to meet its obligations."

To this he replied that he appreciated the friendly attitude of the Department, and that it might assist his Government by assisting the banks of Ecuador to obtain loans to the extent of five to seven million dollars on the security of real estate mortgages. I agreed to transmit that suggestion to the Department.

I called the President's attention to the reported interview with him published in the *London Times*, wherein he was quoted as favoring foreclosure of the Guayaquil & Quito Railway. He immediately confirmed the interview. He said that he gave it as his opinion as a lawyer that under the terms of the mortgage contract, foreclosure was the proper course to take, as the Government of Ecuador was only a guarantor, and that by foreclosure the primary burden would fall upon the Railway Company. I sug-

³⁴ Not printed; it was based upon Department's telegram no. 40, Nov. 29, p. 210.

³⁵ Not printed.

gested to him, in reply, that if a foreclosure was made, and the property sold, as it doubtless would be, at a price far below the bonded indebtedness, there would be a large deficiency judgment to be taken care of. He agreed to that, but said that the purchasers of the Railway would take the same without changing the rights and obligations of the Government as stipulated in the contracts.

I pointed out that the views expressed in his said interview would not enhance the credit of Ecuador nor favorably impress the American bankers who have a proposed refunding loan under consideration. He stated that Ecuador would probably not ask for a refunding loan under these circumstances.

In short, he did not exhibit any interest in the proposed refunding loan.

In further compliance with Department's said instruction, I have today addressed a note²⁵ to the Minister for Foreign Affairs, expressing Department's regret at the President's attitude toward this legitimate American enterprise, the affairs of which are being carried on in accordance with the provisions of an award made by representatives of the Government of the United States and of the Government of Ecuador.

I have [etc.]

CHAS. S. HARTMAN

CACAO TRADE

Efforts to Sustain the Credit of the Cacao Association—Measures Urged upon the Government of Ecuador by the Government of the United States

822.61334/16a: Telegram

The Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, October 27, 1920—6 p.m.

37. Ecuadorean Minister has approached this Department on behalf of his Government for suggestions as to best means of solving crisis in Ecuadorean cacao. Discussion with Mercantile Bank of [the] Americas and other study has led to following propositions which Department is considering. Your views are desired as to whether propositions meet Ecuadorean situation, and your further suggestions are invited. When proper plan is evolved it will be presented in memorandum to Ecuadorean Minister.

1. That the Ecuadorean Government allow and induce the Association as well as the local banks to release enough cacao to cover deficit of Mercantile Bank.

2. That the proceeds from the three sucre export cacao tax be, as far as possible, applied pro rata to the holdings of the Mercantile Bank and the local banks.

²⁵ Not printed.

3. That the three sucre tax be also continued beyond October 1921 until such time as the debts of the Association to the Mercantile Bank are paid.

It is the Department's understanding that local banks have sufficient security already, but that Mercantile Bank has not. Loss on the part of the Mercantile Bank would involve losses and serious disaster to all Ecuadorean interests concerned. Consultation with Consul General at Guayaquil might be appropriate.

COLBY

822.61334/21

The Minister in Ecuador (Hartman) to the Secretary of State

[Extract]

No. 614

QUITO, November 15, 1920.

[Received December 3.]

SIR: Referring to Department's telegram No. 37, of October 27, 6 p.m., advising me that the Ecuadorean Minister at Washington had approached the Department on behalf of his Government for suggestions as to the best means for solving the existing crisis in the cacao dealings with the Mercantile Bank of [the] America[s] and others, I have the honor to submit the following report:

In my telegram No. 76 of November 9, 12 noon,³⁸ I advised the Department that the views of the Consul General had not yet been received, but that Lindberg thinks it necessary to extend three sucre tax to 1926, but that, on Sunday, the Congress had adjourned without passing the extension bill, because of serious opposition thereto. I also stated that the Department's proposed plan would meet the Ecuadorean situation, but that the adjournment of Congress would necessarily delay legislation until next August. In this connection, I deem it proper to refer to my despatch No. 605, of November 5, 1920,³⁸ and to amplify the information therein contained, by informing the Department that in the debate on this measure, members became so violent and angry that personal encounters were only avoided by the President of the Chamber declaring the day's session adjourned. During the last few days of the session sufficient members absented themselves to break a quorum to prevent action on this measure. There is evidently an intense feeling among the people against granting this extension.

³⁸ Not printed.

On Saturday evening, November 13, 1920, I received a letter from Mr. A. F. Lindberg, of which the enclosed is a copy. . . .

I will keep the Department advised of any developments in the case.

I have [etc.]

CHAS. S. HARTMAN

[Enclosure—Extract]

The Assistant Manager, Mercantile Bank of the Americas (Lindberg) to the Minister in Ecuador (Hartman)

GUAYAQUIL, November 10, 1920.

MY DEAR MR. MINISTER: I saw Dr. Goding, the Consul General,⁸⁸ Monday noon, and he agreed to send you a telephone message to find out the exact facts as to the status of the Three Sucre Tax Law in Congress, but up to this hour (Wednesday 2 p.m.) we have not received any message. I wanted to get official information from you before cabling to the Bank in New York. However, officers of the Asociacion de Agricultores del Ecuador, as well as Senators Chavez and Espinel, whom I met this morning, have informed me that Congress took no action on this law.

The refusal of Congress to take action on this law has put us in an extremely difficult and dangerous situation, both as affecting ourselves, the Association and the local banks.

The Association owes the local banks S/.4,000,000, which is guaranteed by the Three Sucre Tax of [for?] 1921. The Association also owes to growers "vales" bearing 7% interest in the amount of S/.2,608,360. The first series of these "vales" began maturing November 3rd last. At the first conference I had with the Association officials, I told them it was advisable to get extensions of these "vales," say for three months, until the situation could be worked out. You will thus see that the Association has been practically denied the right to pay its debts, even if it were willing, and creditors, both foreign and local, are exposed to a heavy loss. The action of Congress practically amounts to confiscation of our property.

For the past four years the Mercantile Bank of the Americas, Inc., has been financing the Asociacion de Agricultores del Ecuador. Through our efforts, and the efforts of our shareholding banks in San Francisco, Chicago, New Orleans, Cleveland and Boston, New

⁸⁸ Frederic W. Goding, Consul General at Guayaquil.

York has become the primary world market for Ecuadorean cacao, having displaced both London and Hamburg.

The Association has promised to send the cacao on hand here to us in New York, to apply against their deficit. It remains to be seen whether they will comply with their promise. On Tuesday last they advised me that they would give us 7,000 bags in Bahia and 5,000 bags in Puerto Bolivar, a total of 12,000 bags. Even if the 31,000 bags now on hand in Guayaquil were shipped tomorrow, it would not balance our deficit, after we have ourselves paid about nine sucres per quintal for export duties, local imposts and expenses, as well as about \$2.25 per bag (a bag contains about 175 pounds, as a rule) cost of freight and insurance, Guayaquil to New York City. All these expenses, based on the present situation, we will have to advance ourselves, and the immediate shipment of 43,000 bags of cacao means about 75,000 quitals will be shipped, producing to the National and Municipal governments about S/.300,000.

The action of Congress has completely ruined the credit of the Association, as well as any opportunity for securing further credit in order to operate and more quickly pay its debts.

The contracts between the Association and the local banks are so broad that they not only include the Three Sucre Tax for 1921, all stock of cacao in Guayaquil, on the Coast and abroad, but also any moneys due to the Association at home or abroad, in addition to whatever real property the Association may have in Ecuador, that is—warehouses. We think the application of these contracts as they stand, and in view of our prior claims and prior advances, is preferential, and that the claims of the local banks begin when ours have been paid.

In view of the quasi-public character of the Association, the Government's approval of its statutes and regulations, the levying of an impost, and the payment of this impost to the Association for the purpose of protecting the cacao industry, this in my opinion makes the Government of Ecuador both legally and morally responsible for the debts of the Association. Even opponents of the Association admit this fact.

Therefore, in view of the action of the Ecuadorean Congress, of the apparent reluctance of the Association to release cacao for moneys due us through fear of the local banks, as representative of the United States banking interests doing business in Ecuador, I respectfully appeal to you for the protection of these interests in Ecuador. If I may venture a suggestion, would the Government call an extra session in the near future to take up the law anew?

If there is any further information or facts which I can give you which would serve your more mature judgment, I am entirely at

your service. I think it advisable to remain in Guayaquil until all the cacao stock on hand is shipped to us, and when this is done I shall be in a position to make some suggestion to the Association for the future, on behalf of the Mercantile Bank of the Americas, Inc. After the debtor has done all that he can, then is the time to see if he can be helped.

Another thing which has complicated the situation is the fixed rate of exchange, which no one but the Association has had to follow. If Ecuador has no exports, naturally there will be a correspondingly heavy decrease in imports, business will be paralyzed, and the Government's revenues will suffer accordingly.

With assurances [etc.]

MERCANTILE BANK OF THE AMERICAS, INC.
A. F. LINDBERG, *Assistant Manager*

822.61334/19 : Telegram

* *The Secretary of State to the Minister in Ecuador (Hartman)*

WASHINGTON, November 29, 1920—7 p.m.

40. Your 78, November 23, 10 a.m.³⁹

1. At conference today between Minister of Ecuador, representative of Mercantile Bank of the Americas and officials of Department, the Minister and bank formulated the following plan and the Minister agreed to urge its adoption upon his Government:

2. The Ecuadorean Government should immediately call extra session of Congress and take following action: First, extend for period of four or five years the export tax on cacao. Second, remove restrictions on exchange transactions.

3. There should be an understanding between the Cacao Association and all of the banks concerned: First, that the proceeds of the export tax shall be allocated among all creditors of the Association. Second, that cacao now in the hands of the Association shall be immediately shipped in an amount sufficient to cover present deficit of Mercantile Bank of the Americas.

4. A representative of the Mercantile Bank of the Americas has handed the following signed statement to the Department: "The Mercantile Bank of the Americas is perfectly willing to continue facilitating the operations of the Association, permitting them to draw against their shipments 80% of the market value of the cocoa. The Mercantile Bank, however, would look to the local banks to provide the remaining 20%. An understanding should be reached between the Association, the local banks and the representatives of

³⁹ Not printed.

the Mercantile Bank in respect to such future financing. Any agreement so reached should have the support of the Ecuadorean Government."

5. The Government should exert pressure necessary to bring about understanding between all interests concerned, as such understanding is imperative if disaster is to be averted.

6. As occasion arises you will use your good offices in support of enactment and application of plan herein outlined.

COLBY

822.61384/22: Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, December 13, 1920—noon.

[Received December 15—11:10 a.m.]

79. Department's 40, November 29, 1 a.m. [7 p.m.] The President went to Guayaquil November 29th to settle cacao situation and other matters. I followed December 1st believing that it was advisable that I be there to render proper assistance in the negotiations and I received Department's number 40 after arrival Guayaquil. After consulting with the American Consul General and Mr. Lindberg I called upon the President accompanied by Lindberg December 4th and stated that I had received a cable from Department directing me to use good offices in bringing about the adoption and application of the plan set out in the cable and which Lindberg had previously outlined to the President in the same conversation. The attitude of the President toward the plan and the arguments in support of it was not emphatic. He stated his dissatisfaction with the Association in neglecting to give proper attention to bill for extension of cacao tax when Congress had it under consideration and said that it appeared to him that the Association was endeavoring to throw entire burden of securing passage of the bill on him and that he doubted whether it would be passed if an extra session of Congress were called. However, he intimated that an extra session might be called in three or four months after excitement has subsided.

In view of his attitude I concluded to leave a memorandum with him based upon Department's telegram and such memorandum was sent to the President in the afternoon of December 6 but he had left for Manta and Esmeraldas earlier in the day. He was expected to arrive Guayaquil yesterday at which time probably he received my memorandum.

I returned Quito Saturday but arranged with Lindberg to notify me if it becomes necessary for me to return to Guayaquil in which event I will go immediately.

Lindberg insists upon delivery to Mercantile Bank of the 31,000 bags cacao at Guayaquil before stating proposals for future assistance to Association and I concur with him in that respect. We had frequent consultations during the week I was there and are in complete accord as to present procedure.

Lindberg will keep me advised and I will advise Department of developments.

HARTMAN

822.61334/19 suppl. : Telegram

The Acting Secretary of State to the Minister in Ecuador (Hartman)

WASHINGTON, December 13, 1920—7 p.m.

42. Department's No. 40, November 29, 7 p.m.

Mercantile Bank states that little or no progress toward solution of cacao problem is being made. Bank intimated that it may be forced to bring about liquidation of Cacao Association unless immediate action in Ecuador is obtained, adding that this step should only be last resort.

You are instructed to point out to Ecuadorean Government its interest in arriving at an early solution of cacao problem, and to use your influence toward effecting solution already outlined.

DAVIS

822.61334/24 : Telegram

The Minister in Ecuador (Hartman) to the Acting Secretary of State

QUITO, December 23, 1920—11 a.m.

[Received December 24—8 p.m.]

86. Department's 42 of December 13, 7 p.m. Presented matter to the President Monday. I emphasized the importance of adopting plan as outlined which was set out in a memorandum left with him in Guayaquil December 6th. He said that it would be inconvenient to call extra session of Congress before March or April as he has some other matters to present to Congress which are not yet prepared and because the Government is short of funds to pay expense of extra session.

The Advisory Commission appointed to deal with present situation reported in favor of extra session to repeal exchange, extend cacao tax five years, adopt new revenue laws, granting permission

to export all national products and restricting importation of luxuries.

HARTMAN

PETROLEUM LEGISLATION OF OCTOBER 18, 1919, AND NOVEMBER 25, 1920

822.6363/16: Telegram

The Minister in Ecuador (Hartman) to the Secretary of State

QUITO, October 30, 1919—10 a.m.

[Received October 31—5:10 p.m.]

Law passed Congress and approved by the President declares that petroleum mines not yet adjudicated belong exclusively to the State and private parties may not denounce them pending the enactment of a new law relating thereto. If payment of patents shall not be made within the time fixed by mineral code the right acquired will *ipso facto* be void. Right of holder of patents will cease *ipso facto* unless exploitation of mines be commenced within two years and pending enactment of new law rights previously acquired cannot be sold or transferred. Annual patent fee of not less than 5 pounds [percent?] nor more than 10 per cent of gross production will be charged.

I am informed that law is similar to Colombian law. The bill was considered and passed in secret session October 18 and first knowledge obtained in the newspapers of October 27th.

HARTMAN

822.6363/27

The Minister in Ecuador (Hartman) to the Acting Secretary of State

No. 626

QUITO, December 21, 1920.

[Received January 15, 1921.]

SIR: I have the honor to confirm my telegram No. 82 of December 17, 11 a.m.,⁴⁰ wherein I gave present status of Ecuadorean oil legislation and transmitted the body of the decree approved November 25, 1920.

I now enclose, for the information of the Department, triplicate copies of *Registro Oficial* containing the said decree of November 25, 1920, together with triplicate copies of the translation of the decree.

I have [etc.]

CHAS. S. HARTMAN

⁴⁰ Not printed.

[Enclosure—Translation]

Legislative Decree of November 25, 1920, Providing for a Petroleum Mining Law

THE CONGRESS OF THE REPUBLIC OF ECUADOR
CONSIDERING :

1st. That the Legislative Decree approved October 18, 1919, was of a purely transitory character, adopted pending the passage of a special Petroleum Law.

2nd. That in view of the singular importance of this law it should receive careful study, which the present Congress, for lack of time, is not prepared to give it; and

3rd. That in the said Legislative Decree, in the supposition that the said special law would be enacted promptly, were included provisions which if continued in force for a longer time might affect rights already acquired, with injury to the national interests and to the holders of these rights acquired in conformity with the laws in force at the time of their acquisition.

DECREES :

ARTICLE 1. Article 3 of the transitory Legislative Decree of October 18, 1919, will read :

"The rights of concessionaires who within the period of five years from the date this law goes into effect, shall not have commenced the scientific working of the mines adjudicated, by means of the installation of machinery suitable for this class of work, shall also, *ipso facto*, cease.

"If one person alone or corporation shall have in possession concessions exceeding 5,000 hectares, the period of time will be understood as extended in the proportion of five years for each 5,000 hectares in excess."

ARTICLE 2. The following is substituted for Art. 4 of the said Decree :

"Pending the enactment of the new law, the rights previously acquired in petroleum mines may not, in any manner, be sold or transferred among living persons, without previous authorization of the Chief Executive, who, in his discretion, may refuse to grant such authorization."

ARTICLE 3. Petroleum mines which have been definitely adjudicated through the extension of the respective titles, continue subject to the provisions of the Mineral Code as amended, including the amendments of the transitory Legislative Decree of October 18, 1919.

ARTICLE 4. The Executive Power will name a commission of three persons, who will prepare the draft of a special petroleum law which will be presented by the proper Ministry at the first session of the next ordinary Congress.

Approved Nov. 25, 1920.

JOSÉ LUIS TAMAYO

EGYPT

PROPOSAL BY GREAT BRITAIN TO RECONSTITUTE THE MIXED COURTS AND TO TRANSFER TO THEM THE JURISDICTION EXERCISED BY THE CONSULAR COURTS—INVITATION TO THE GOVERNMENT OF THE UNITED STATES TO MAKE NOMINATIONS TO FILL A VACANCY IN THE MIXED COURT OF APPEAL

883.05/148 : Telegram

The Chargé in Egypt (De Billier) to the Acting Secretary of State

CAIRO, March 6, 1920.

[Received March 7—9:30 a.m.]

23. Mailing draft today laws for reconstruction the Mixed Courts. Article 1, explanatory memorandum reads:

“The reconstruction of the Mixed Tribunals amounts in effect to the transfer to the Mixed Tribunals of the jurisdiction hitherto exercised by the consular courts. The draft laws in which the scheme for the reorganization of the Mixed Tribunals is contained have been prepared upon the assumption that before they come into force the foreign powers will have entered into agreements with Great Britain for closing their consular courts. It is also assumed that such agreements will recognize the special position which Great Britain enjoys in Egypt and will confide to her the powers which are necessary to enable her to discharge satisfactorily the duties which that special position imposes upon her both towards Egypt itself and towards foreigners in Egypt.”

DE BILLIER

883.05/159a : Telegram

The Secretary of State to the Chargé in Egypt (De Billier)

WASHINGTON, May 7, 1920—5 p.m.

25. Department understands Judge Tuck has resigned.

This Government desires appoint Judge Crabitès to Court of Appeals. Take up matter orally immediately with proper authority and report.

COLBY

883.05/160 : Telegram

The Chargé in Egypt (De Billier) to the Secretary of State

CAIRO, May 11, 1920—4 p.m.

[Received 5:55 p.m.]

44. Department's May 7, 5 p.m. The Minister for Foreign Affairs taking note of the Government's desire that Judge Crabitès

be appointed to the Court of Appeals to fill the vacancy created by the retirement of Judge Tuck, which takes effect November 1st states, first that it views the transfer of judges from one court to another as a matter concerning the Egyptian Government only and second that the Government's desire in the matter has been telegraphed to London to which place practically all questions relating to the Mixed Courts have now been referred. The Minister for Foreign Affairs says also that it will be very glad to receive nominations for the coming vacancy in the American representation in the Mixed Courts. My conclusion is that the Ministry is unwilling to commit itself on this and related questions, the whole matter having been shifted to London.

DE BILLIER

883.05/161 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

LONDON, May 28, 1920—5 p.m.

[Received 6:39 p.m.]

862. Department's 510, May 15, 6 p.m.¹ Foreign Office stated informally today that the Mixed Tribunals would adjourn about the middle of June and not be [reconvened?] until the first part of November and that it was deemed inadvisable to make any appointments during the three remaining weeks in view of the Government's program of transferring on November 1st to the International Court the jurisdiction now exercised by consular courts.

The intimation was made that in the reconstruction of the International Court it was desirable on the grounds of language to have an American representative but that it was difficult to accord such representation as a right since other nations with no local colonies or interests would likewise insist upon the right of representation.

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DAVIS

883.05/162 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

LONDON, June 3, 1920—5 p.m.

[Received 7:46 p.m.]

887. My 862, May 28, 5 p.m. Permanent Under Secretary for Foreign Affairs has suggested unofficially that negotiations be conducted in London regarding the judicial reforms which it is proposed to introduce in Egypt on the expiration October 31st next of the

¹ Not printed.

present mandate of the existing Mixed Courts. Lord Hardinge states that official note of confirmation will follow shortly. Please instruct whether Department acquiesces in principle in this proposal.

DAVIS

883.05/161: Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, June 11, 1920—5 p.m.

637. Your important 862, May 28, 5 p.m. In view of statement that Mixed Tribunals will soon adjourn, and information from Cairo that resignation of Judge Tuck will not become effective until November 1st, also the proposal to reorganize Mixed Courts, the Department will not press for appointment of successor to Tuck at this time. You should make it clear to British Government, however, that in taking this position this Government in no way foregoes its right to nominate a successor to Judge Tuck, nor does it in any way commit itself to any proposed reorganization of the Mixed Court[s] which would contemplate placing this Government in a less favorable position than it now enjoys in Egypt.

COLBY

883.05/162: Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, June 11, 1920—6 p.m.

638. Your 887, June 3, 5 p.m., regarding judicial reforms in Egypt. Department sees no objection at present to suggestion that negotiations be conducted in London.

COLBY

883.05/166: Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

LONDON, June 30, 1920—5 p.m.

[Received 7:31 p.m.]

1005. My 989, June 25, 10 p.m.² After preliminary discussion held yesterday, Foreign Office made following proposals regarding projected British régime in Egypt.

"1. The United States having recognized the protectorate in Egypt, declared by Great Britain on December 18th, 1914, renounces, in favor of Great Britain, all rights and privileges which they possess in Egypt in virtue of the régime of the capitulations.

² Not printed.

2. From the coming into force of the new judicial organization in Egypt under the authority of the [protecting] power the American consular courts shall cease to exercise jurisdiction except for the purpose of completing pending cases.

3. Citizens of the United States shall enjoy in Egypt the same treatment as British nationals in all matters concerning public liberties, the administration of justice, individual rights including the tenure of real property and mining rights, the exercise of professions, businesses and industries and the imposition of taxes and duties.

Children born in Egypt of an American father, who is entitled to the privileges of a foreigner there, shall be entitled to American nationality; they shall not, by the sole reason of birth in Egypt, become Egyptian subjects.

4. American consul general, consuls, vice consuls and consular agents in Egypt shall enjoy, from the closing of the consular courts, the same status as American consuls in Great Britain.

They shall continue to exercise in the interest of private persons all their non-judicial functions in the same conditions as heretofore, in so far as the laws of Egypt do not conflict therewith.

5. Treaties other than those relating to commerce and navigation which are in force between Great Britain and the United States shall extend to Egypt.

It is reciprocally agreed that the system at present in force in the United States and in Egypt respectively in regard to imports from the other country and in regard to exports to that country shall not be in any way modified, without notice, which shall be given twelve months in advance. Nevertheless, the present arrangements shall not interfere with the right of the United States Government and of the Egyptian Government to introduce modifications in the existing customs regulations and duties provided that they apply equally to all other countries.

6. American schools of every denomination in Egypt shall continue to enjoy the same liberty as hitherto, they shall submit to whatever laws, for the control of schools, are made applicable to all European schools in Egypt.

7. The United States agree, subject only to the consent of the other powers concerned being obtained thereto, that all the powers and duties of the International Quarantine Board in Egypt shall pass into the hands of the Anglo-Egyptian authorities."

While it is admittedly difficult to reconcile the Department's attitude as expressed in its 637, June 15 [11], 5 p.m., with the avowed objects of paragraph[s] 1 and 2, it is respectfully pointed out that similar proposals are being made to all capitulatory powers that a majority of the twelve consular courts in Egypt will be closed as a result of present negotiations, and that the American consular court, according to the Foreign Office, held its last session 15 years ago.

Paragraph 3: Last line of clause one may be considered as protection against introduction of imperial preference in Egypt; clause two appears to accord fully with international law and is therefore unobjectionable.

Paragraph 4 clause two simply insures free exercise of notarial functions and official actions such as celebration of marriages.

Paragraph 5 clause one relates principally to extradition; I have reason to believe that period of 12 months mentioned in clause two will be prolonged if request is made to that effect.

Paragraph[s] 6 and 7 seem acceptable if not advantageous. The International Board mentioned in paragraph 7 will not be abolished but simply controlled by Anglo-Egyptian authorities.

The question of reorganization of the Mixed Court will be considered later. I suggest that the Department insist on separate private understanding respecting American representation thereon. However, as previously pointed out Great Britain is not inclined to grant this as a right in view of possible complications with other powers.

DAVIS

883.05/171

The Ambassador in Great Britain (Davis) to the Secretary of State

No. 3171

LONDON, July 19, 1920.

[Received July 31.]

SIR: In compliance with the Department's telegraphic instruction No. 712 of July 8 [6], 1920,³ directing me to forward a complete statement of the British proposals for reforms in Egypt, including those for the re-organization of the Mixed Courts, I have the honor to transmit herewith a copy of a Note, No. E 8016/509/16, dated July 15, 1920,⁴ received from the Foreign Office, which accompanied two copies of the Draft Laws for Reconstituting the Mixed Courts.⁵

In this connection the attention of the Department is respectfully invited to the comments contained in my telegram No. 1005 of June 30 on the subject of the proposed abolition of the régime of the Capitulations and the consequent closing of the consular courts. The British Government declares, however, that it is not its intention at present to attempt the unification of all the jurisdictions in Egypt; its view is that the first step should be the re-organization of the Mixed Tribunals and the transfer to them of the jurisdiction hitherto exercised by the consular courts, leaving the jurisdiction of the native courts untouched for the present.

The Foreign Office states that the draft laws appended hereto were discussed in detail at Alexandria with representatives of the Judges and the Bar of the Mixed Courts, and that many suggestions

³ Not printed.

⁴ Note did not accompany this despatch; see despatch of Aug. 18, *infra*.

⁵ Not printed; published by Government Press, Cairo, Apr. 18, 1920.

offered by these gentlemen were incorporated in the draft. It should be noted that the draft in question should not be regarded as final, as the observations or criticisms of all the Judges of the Mixed Courts are understood to have been invited. Furthermore, the British Government reserves to itself the right to introduce any amendments which it feels will conduce to the good administration of justice in Egypt.

The enclosed Note points out that the general effect of these new decrees, when they come into force, will be not merely to re-organize the Mixed Courts, but also to remove the two great obstacles which the régime of the Capitulations has opposed to the good government of the country, viz., immunity from taxation imposed by the local government, and immunity from local legislation.

With reference to the enforcement of local legislation, there is advanced a plan whereby the British High Commissioner shall establish a consultative committee on which foreign colonies in Egypt will be represented in proportion to their numbers. In dealing with the guarantees to foreigners in Egypt, the Foreign Office cites the assurance contained in Article 3 of the draft convention, transmitted under cover of my despatch No. 3117 of July 2, 1920,^a that American citizens shall stand on precisely the same footing as British nationals.

As the Department is aware, the judges of the Mixed Tribunals have in the past been appointed by the Egyptian Government after unofficial discussion with the governments which have adhered to the judicial reforms of 1875. With regard to this question, and with reference to the Department's telegram No. 637 of June 15 [17], 1920, it may be pointed out that Article 5 of *Règlement D'Organisation Judiciaire* reads as follows:—

“La nomination et le choix des juges appartiendront au gouvernement égyptien mais, pour être rassuré lui-même sur les garanties que présenteront les personnes dont il fera choix, il s'adressera officiellement aux Ministres de la justice à l'étranger, et n'engagera que les personnes munies de l'acquiescement et de l'autorisation de leur gouvernement.”

In reconstituting the Mixed Courts the British Government contemplates re-appointing all the existing judges (except those whose age qualifies them to retire on a pension) who are subjects or citizens of a power which agrees to close its consular court. As regards future appointments, however, it is asserted that nationality will not be taken into account, except in so far as local conditions may require.

^a Not printed; see telegram no. 1005 from Great Britain, June 30, *supra*.

As explained in my previous communications in this relation, the foregoing provision is intended to apply particularly to those powers which have no local colonies or interests in Egypt.

I have [etc.]

JOHN W. DAVIS

883.05/174

The Chargé in Great Britain (Wright) to the Secretary of State

No. 3304

LONDON, August 18, 1920.

[Received August 31.]

SIR: In compliance with the Instructions contained in the Department's Telegram No. 874 of August 17, 4 p.m.,⁷ I have the honor to transmit herewith quadruplicate copies of the Note, No. 8016/508/16^s of July 15, 1920, from the Foreign Office, relative to the British proposals for reforms in Egypt, which should have accompanied the Embassy's despatch No. 3171 of July 19, 1920.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

No. E 8016/509/16

[LONDON,] July 15, 1920.

YOUR EXCELLENCY: At the time when the British Protectorate over Egypt was proclaimed in 1914 after Turkey's intervention in the war against the Allies, His Majesty's Government stated that though it had been repeatedly placed on record that the system of the capitulations was no longer in harmony with the development of the country they considered that the revision of these treaties might most conveniently be postponed until the end of the war.

2. The investigations made by the Special Mission under Lord Milner to Egypt during the past winter have shown that the time has come when the good administration of the country cannot be ensured unless substantial changes are made in the present form of Government in the country, and particularly unless the protecting Power is placed in a position which will enable her to discharge the duties and responsibilities towards foreign Powers and their subjects in Egypt which she has undertaken by the proclamation of the Protectorate. First and foremost among the changes which are called for is the reorganisation of the judicial system which now prevails in Egypt.

3. Your Excellency is doubtless aware that in 1875, after years of skilful negotiation on the part of Nubar Pasha, a series of Mixed

⁷ Not printed.

^s Number incorrect; see enclosure *infra*.

Tribunals were instituted in Egypt by decree of the Sultan approved by the Powers. These tribunals were made competent to deal with civil suits between foreigners in Egypt of different nationalities or between foreigners and Egyptians. They were also given a limited criminal jurisdiction, but in general criminal jurisdiction over foreigners entitled to the benefits of the régime of the capitulations as well as all civil suits between those of the same nationality continued to be dealt with in the consular court of the Power concerned.

4. The Mixed Tribunals were originally instituted for a period of five years, but their existence was constantly prolonged for further quinquennial periods, and has more recently been prolonged for shorter periods. The Decree now in force establishing the courts will expire on the 1st of November next, and it is not the intention of His Majesty's Government to advise the Sultan of Egypt to renew it, as they feel that the time has come when a reform of the conditions affecting foreigners in Egypt should be carried through. This reform must necessarily entail the closing of the consular courts, as His Majesty's Government feel that the maintenance of these twelve separate foreign courts is inconsistent with the existence of the Protectorate. It is not their intention, however, at present to attempt the unification of all the jurisdictions in Egypt; their view is that the first step should be the reorganisation of the Mixed Tribunals and the transfer to them of the jurisdiction hitherto exercised by the consular courts, leaving the jurisdiction of the Native Courts untouched for the present.

5. To enable this reorganisation of the judicial system to be carried into effect in Egypt and due effect to be given to the British Protectorate which was recognised by the United States Government on April 22nd, 1919, an agreement will be necessary between the United States Government and His Majesty's Government. I have already had the honour to furnish you with a copy of a draft convention showing the lines on which it is suggested that such an agreement should be based. This draft agreement was drawn up on the assumption that the United States having already recognised the special position of Great Britain in Egypt will also be willing to confide to her the powers which are necessary to enable her adequately to discharge the duties which that position entails.

6. You are also in possession of copies of the draft decrees which have been prepared in order to effect the reorganisation of the Mixed Tribunals. These drafts were discussed in detail at Alexandria with representatives of the Judges and the Bar of the Mixed Courts. Many valuable suggestions were made by these gentlemen, all of which were incorporated in the drafts, particular attention

being devoted to the question of cases relating to the "statut personnel" of foreigners, a matter of considerable importance in Egypt.

7. Further modifications may yet be made in these draft laws as the observations or criticisms of all the judges of the Mixed Courts have been invited. You will, therefore, realize that the drafts in question are not to be regarded as furnishing the text of a law [to] which the consent of the United States Government is sought. The measure will be one for which Great Britain alone will be responsible and into which His Majesty's Government will be free to introduce any amendments which they feel will conduce to the good administration of justice in Egypt.

8. The general effect of these new Decrees when they come into force will be not merely to reorganise the Mixed Tribunals but also to remove the two great obstacles which the régime of the capitulations has opposed to the good government of the country, viz., immunity from taxation imposed by the local Government, and immunity from local legislation. Under Article 1 of Law 2, the new Mixed Courts will enforce all Egyptian legislation which has received the approval of the High Commissioner. Taxation which is imposed by an Egyptian Decree will therefore apply to foreigners as well as to Egyptians, if it has been approved in the manner indicated, in the same way as it would have applied to them in the past, if the Decree had been submitted to and approved by their respective Governments.

9. For the purpose of enabling His Majesty's High Commissioner for Egypt to obtain the views of the various foreign colonies on the legislation proposed or enacted in Egypt and of advising him as to the exercise of the power of approving Egyptian legislation so as to make it binding on foreigners, it is the intention of His Majesty's Government to establish a consultative committee on which the foreign colonies in Egypt would be represented in proportion to their numbers.

10. You will no doubt, however, realise that the real and effective guarantee to all foreigners in Egypt, one which would alone be sufficient to justify foreign Governments in confiding to His Majesty's Government the care of the interests of their nationals in Egypt in all matters connected with the régime of the Capitulations, is the assurance contained in Article 3 of the draft Convention that American citizens shall stand on precisely the same footing as British nationals.

11. The judges of the Mixed Tribunals have in the past been appointed by the Egyptian Government after unofficial discussion with the Governments which have adhered to the judicial reforms of 1875. The result has been that all these Governments are represented

on the Bench. This is not a system which is in reality conducive to the good administration of justice. The intentions of His Majesty's Government are to appoint to the reconstituted Mixed Courts all the existing judges of the Mixed Tribunals (other than those whose age qualifies them to retire on a pension) who are subjects or citizens of a Power which agrees to close its consular courts. As no doubt the United States Government will be willing to enter into an agreement for this purpose with His Majesty's Government, the American judges now serving in the Mixed Tribunals will be appointed to the new courts. As regards future appointments, however, nationality will not be taken into account except in so far as local conditions may require. The nationality of the judges will be determined solely by reference to the proper discharge of their functions by the Courts, and the only foreign judges, other than subjects of the Protecting Power, will be those whom it may be desirable to appoint for administering justice to their fellow countrymen.

12. His Majesty's Government attach considerable importance to the conclusion of this agreement with as little delay as possible and I should, therefore, be grateful if you would be good enough to give the matter your earliest consideration.

I have [etc.]

(for EARL CURZON OF KEDLESTON)

J. A. C. TILLEY ⁸

883.00/319

The British Embassy to the Department of State

No. 551

MEMORANDUM

In view of exaggerated reports in regard to Egypt which have recently appeared in the press, H. B. M. Embassy wish to inform the State Department that the present position is as follows:

As a result of negotiations between Lord Milner's Mission and Zaghoul and his associates certain heads of agreement have been arrived at, the substance of which was more or less correctly published in the *Times* of August 23rd and August 24th. These terms have not yet received the approval or the consideration of His Majesty's Government.

Certain of Zaghoul's associates are returning to Egypt to endeavour to obtain the support of the Egyptian people for an agreement on the lines proposed. If they are successful and if His Majesty's Government approve, it will then be necessary for a Treaty to be negotiated by properly appointed representatives of His Majesty's Government and of the Sultan of Egypt. Nothing in the terms of

⁸ Chief of the Near Eastern Division of the British Foreign Office.

the signed agreement will interfere with the modification of capitulations and abolition of the Consular Courts.

Nor does the agreement affect the Sudan.

WASHINGTON, 27 August, 1920.

883.05/180

The Chargé in Great Britain (Wright) to the Secretary of State

No. 3585

LONDON, October 14, 1920.

[Received November 1.]

SIR: With further reference to my despatch No. 3171 dated July 19, 1920, and my despatch No. 3304 dated August 18, 1920, regarding the judicial reforms in Egypt as proposed by the British Government, I have the honor to transmit herewith a copy of a Note which has just been received from the Foreign Office, No. E.12275/509/16, dated October 12, 1920, regarding the vacancy caused among the judges in the Court of Appeal by the retirement of Judge Tuck, and requesting, on behalf of the Egyptian Government, that the United States Government suggest a suitable successor of equal eminence.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Chargé (Wright)

No. E 12275/509/16

[LONDON,] October 12, 1920.

SIR: I have the honour to refer to the note which I addressed to the United States Ambassador on 15th July, laying before His Excellency certain proposals for the reform of the Mixed Courts in Egypt which it was desired to bring into force by November 1st next.

Conversations with the Egyptians have shown that a little longer time will be necessary to make the required arrangements for the introduction of the scheme in question and the Egyptian Government have therefore decided on the advice of His Majesty's Government to request the Powers concerned to agree to the prolongation of the *status quo* for a further period of six months, and the necessary steps are being taken in Cairo to this end.

As a vacancy has been caused among the number of judges in the Court of Appeal by the retirement of Judge Tuck and as it is desired to replace him by another American judge, I have the honour to request, on behalf of the Egyptian Government, that you will

move the United States Government to suggest a suitable successor of equal eminence.

The Egyptian Government would be grateful if the United States Government would be good enough, in accordance with common though not universal custom, to suggest three candidates for the post in question and to communicate their names to His Majesty's Ambassador at Washington who is being instructed to forward them to Egypt.

I have the honor to add that the conditions of service will be in accordance with the Sultan's decree of March 8th, 1920, with the addition of one hundred and fifty pounds per annum payable in March and September, an addition which has so far only been granted for the present year.

I should be grateful if you would, when bringing this matter to the notice of the United States Government, emphasize the importance which His Majesty's Government continue to attach to the speedy conclusion of a convention on the lines laid down in my note referred to above. In advising the Egyptian Government to proceed forthwith to the appointment of an American judge to succeed Judge Tuck, His Majesty's Government have afforded a proof which the United States Government will doubtless appreciate of their sincere desire to preserve the American element in the constitution of the Mixed Courts and to avail themselves of the talents of eminent American jurists which they feel confident will prove as valuable in the future as they have done in the past.

I have [etc.]

(For the Secretary of State)

J. A. C. TILLEY

883.05/180

The Secretary of State to the Ambassador in Great Britain (Davis)

No. 1038

WASHINGTON, November 23, 1920.

SIR: Reference is made to your despatch No. 3585 of October 14, 1920, enclosing a communication received by the Embassy from the Foreign Office regarding certain proposed changes in the Mixed Courts of Egypt and the filling of a vacancy in the Court of Appeal resulting from the retirement of Judge Tuck, the American member of that Court.

With respect to the request by the British Government that this Government suggest a suitable successor to Judge Tuck, your attention is called to the Department's telegram No. 510, of May 15,* last, in which the desire was expressed that Judge Crabitès, now

* Not printed.

serving on the Court of First Instance, should be elevated to the position made vacant by the retirement of Judge Tuck. Before taking any action looking to the submission of other names, the Department would like to be advised whether there are any objections to the promotion of Judge Crabitès and, if so, to be informed of the nature of such objections.

The proposal of the British Government regarding the reorganization of the Mixed Courts and the surrender of consular jurisdiction in Egypt is receiving the Department's consideration and will be made the subject of a further communication within a short time.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

ETHIOPIA

TREATY OF JUNE 27, 1914, WITH THE UNITED STATES

Negotiation and Signature of a Treaty of Commerce at Addis Ababa—
Notification to Prince Lidj Yassou, December 20, 1914, of Ratification by
the United States—Proclamation of the Treaty by President Wilson,
August 9, 1920

711.842/2

*The Consul General at Addis Ababa (Wood) to the Secretary of
State*

No. 4

ADDIS ABABA, *April 18, 1914.*

[Received May 18.]

SIR: I have the honor to acknowledge the receipt of the Department's No. 2, dated January 3, 1914,¹ regarding the negotiation of a new commercial treaty between the United States and Ethiopia.

Very soon after my arrival I approached informally the Minister of Foreign Affairs with this point in view. He hesitated for a while not knowing whether it would be advisable for the Crown Prince at the present time to negotiate any treaty, especially as the death of Menelik II had not been officially proclaimed. I called his attention to the fact that upon the death of Menelik all the rights, privileges, power and authority descended to Prince Lidj Yassou who had been proclaimed successor of Menelik II., and I also observed that Lidj Yassou was exercising all of the prerogatives of the Emperor of Ethiopia. He assented and said that if it were absolutely necessary to negotiate the treaty at once he would submit it to the Prince and his Ministers for their consideration. But he expressed the opinion that if it were not absolutely necessary that it would be better to defer the consideration of the treaty until a time when political conditions of the country were more firmly established. I could not secure an expression of opinion as to how long that would be.

My sickness which has continued incessantly for two weeks and I am still confined to my bed suffering some pain, so that it has been impossible for me to take up the negotiation of the said new treaty. But if my condition steadily improves, I expect to have the treaty signed within a month from date.

I have [etc.]

JOHN Q. WOOD

¹ Not printed.

711.842/7

The Consul General at Addis Ababa (Wood) to the Secretary of State

No. 14

ADDIS ABABA, June 9, 1914.

[Received July 11.]

SIR: I have the honor to acknowledge the receipt of the Department's No. 4 of January 9, 1914² in regard to the Order in Council of His Majesty the King of Great Britain establishing a system of Consular Courts in Abyssinia.

In the seventh section of the French treaty with the Ethiopian Empire, signed the 10th of January, 1908, a consular jurisdiction was granted to the French Government and under the most favored nation clause has been extended to all the other foreign powers represented here. The British Consuls in Abyssinia and the Consul-General in Adis Ababa have exercised this right from the very date of said treaty. There was no system in the procedure and criticism in [of] the manner in which cases were conducted resulted in a study of the best system for this country culminating in the aforesaid Order in Council, a copy of which is being mailed the Department under separate cover.²

The French Government passed a special law the 16th of November, 1909 regarding the application of the law in civil and criminal cases before the French consuls in Abyssinia. There was a Royal Decree of the Italian Government dealing with the extension of consular jurisdiction in this country, proclaimed about the same time; and I am informed by the Italian Minister here that his Government intends to issue a special order covering all questions affecting consular rights in Abyssinia. All of the other Powers here hold their consular courts and we have claimed and exercised the same consular rights.

Although not specifically granted in said French treaty all questions between foreigners are adjudicated in the consular court of the defendant. This applies to criminal as well as civil cases. Cases between foreigners and Abyssinians theoretically follow the terms of the said treaty. The Italians have managed to prevent their subjects from being tried in Abyssinian courts for criminal offences. It will be noted in the last part of Section 7 of said French treaty that the Abyssinian Government binds itself to deliver to the Consuls all foreigners arrested. The foreign powers have claimed that their citizens who have committed any offences against other foreigners should be tried by their own consular

² Not printed.

officials and although the Abyssinian Government has contended to the contrary, still it has allowed this procedure to be established without protest. The Abyssinian courts have thus been shorn of a large part of their sovereign rights and all to the advantage of justice in this country as it is quite impossible for foreigners to secure fair treatment in the Abyssinian tribunals as now constituted. The delays are innumerable and for almost any trivial cause; the corruption of the officials is recognized by everybody.

Some of the leading Abyssinian officials date all of their troubles with the foreigners to the signing of the French treaty and they are determined to refuse to renew the part granting extraterritorial jurisdiction. This struggle will not take place for four years but it can be easily foreseen that the British, French and Italian Governments will not relinquish what they now have, obtained partly by the French Treaty and partly from established usage. It has been for this reason most difficult to convince the Abyssinian Ministry that our proposed treaty does not contain any absolute extraterritorial rights but only conditional. I am quite convinced, however, that the majority appreciate the distinction but for certain political reasons the Minister of Foreign Affairs desires that we not insist on a ten-year treaty but only a four, so as to end with or about the time of the expiration of the French treaty. In my opinion we will lose nothing by such a concession and the Abyssinian Government will be under moral obligation to assist us in many ways.

I have [etc.]

JOHN Q. WOOD

711.842/17

*Report of the Consul General at Addis Ababa (Wood), temporarily at Washington*³

[Extract]

CONFERENCES WITH MINISTER OF FOREIGN AFFAIRS

At my first interview with the Minister of Foreign Affairs I was given the impression that he was deeply gratified with the decision of our Government to send a representative to Abyssinia to succeed Minister Hoffman Philip. He stated that such a long time had elapsed since the death of the late Vice Consul-General Love he had feared that our Government had decided not to send another diplomatic official. He spoke of the trade between our countries and expressed the hope that it might be increased; he also said that he would be pleased to have my advice on international questions that

³ Covering despatch of the same date not printed.

might arise when he learned that I was by profession a lawyer and observed that he felt confident of unbiased opinions on account of the fact that we had no political interests to serve. I stated that it would be a pleasure to render him every possible assistance as far as my position permitted. I then arranged for a day when we could take up the discussion of a new treaty between our Governments. The Minister said that there would be no difficulty in re-newing the old treaty.⁴ I explained that the new treaty, which was desired, bore only a few changes from the old, due to changed conditions. He stated that it would only be necessary to speak to the Prince, observing, however, that if it were not absolutely necessary to sign the treaty at once, it would be better to delay for a month until His Royal Highness should be in a stronger position as there existed considerable political unrest in his country. To this suggestion I readily agreed.

Unfortunately I was stricken down with rheumatic fever three weeks after my arrival in Adis Ababa and was not able to resume the negotiations for three weeks. At the second interview His Excellency was unwell and requested a postponement, but he promised to procure the consent of the Prince and to notify me immediately. I waited in vain for a communication and after two weeks called again. His Excellency was evidently not interested in the discussion of the treaty and finally stated that he was sorry to disappoint me as he realized that I was much interested in procuring a new treaty but he added that he was not convinced of the necessity of entering into any new treaty relations as our countries had always been at peace and he couldn't conceive of any questions arising that would necessitate the invocation of treaty rights. . . .

I then stated to him that he had led me to believe the new treaty would be signed without his opposition and that the Prince had already given his consent, that his change of attitude was incomprehensible. I then suggested for his consideration the fact that all the other powers represented in Abyssinia had treaties with his Government and that a failure to conclude and sign a new treaty would be construed as an unfriendly act by my Government. I explained that I did not believe he desired to convey such an impression and that I was sure that the Prince would not approve such a course when he understood the significance of the proposed treaty. I then requested an audience with His Royal Highness for the purpose of explaining why the treaty should be concluded. After a few moments of reflection the Minister said he would

⁴ For text of treaty signed Dec. 27, 1903, and proclaimed Sept. 30, 1904, see *Foreign Relations*, 1904, p. 298.

examine the treaty section by section and later discuss the matter with the Prince. The only objection he made was in regard to the term of ten years. He stated that it would be necessary to secure the approval of all the Ministers on this point, otherwise the Prince would not sign. I told him that I should prefer to have all the Ministers give their consent before the Royal Seal should be affixed to the documents and that I welcomed the opportunity of meeting the Council for an open discussion of the different articles in the treaty. He replied that it would not be necessary, but asked for a few days in which to examine the old treaty, promising to notify me when the signing would take place. Several days passed without a word from His Excellency.

I sought another interview and learned that the Minister had made no attempt to secure the old treaty from the archives of the Ministry of Finance. Fortunately I had in the meantime discovered a copy of the treaty of 1904 and gave it to him to read. I told him of my desire to leave for a vacation in the early part of June in accordance with the advice of my physician and urged upon him the advisability of setting a day in which to finish the negotiation of the treaty. He replied that I should not worry as everything would be arranged to my satisfaction in a few days. Not receiving any word I decided to bring matters to a crisis by sending our interpreter to the Minister, requesting a pass for myself and guard from the capital to the railroad line as I contemplated departing as soon as possible. He sent word for me to come at once to his office and asked whether I was going on leave or whether I had been recalled by my Government. The reason of this request was evidently due to suspicion on his part because only a few weeks before the Russian Legation had made a demand for an apology on the part of the Minister of Justice, failing which the Minister had been notified the Charge d'Affaires of the Legation would be recalled. I frankly told His Excellency that I was going on leave by permission of my Government, as I had been informed that a residence in Adis Ababa during the summer season would be dangerous to my health. He expressed a keen sense of relief at my explanation. I then stated that I had hoped to have the satisfaction of taking back to America and presenting to the President a new treaty between our countries but that on account of the delay caused by him I should have to leave without it. He said that he could do nothing without the approval of the Council of Ministers and promised to arrange a meeting at which I should explain everything as I had to him. I thanked him for his courtesy and expressed my desire that the conference should take place at the very earliest date possible. . . .

MEETING WITH COUNCIL OF MINISTERS

On June the 4th I rode to the Royal Palace with an escort of four guards and Mr. Tadla, a special Abyssinian interpreter. The Minister of Foreign Affairs welcomed me most cordially and presented me to his colleagues with whom I shook hands. We then seated ourselves around a long table which was covered with green cloth. At the head of the table was a vacant chair occupied by the Prince when he attends a conference of the Ministers, which I am informed is not frequent. I was seated between the President of the Council, the Minister of War and the Minister of Foreign Affairs. The interpreter stood at my left during the entire interview. I then addressed the Council on the subject of the proposed new treaty, pointing out the changes desired and explaining the reasons therefor; I called to their attention the fact that our countries had always been at peace, that all we desired was a simple commercial treaty with the same rights that were granted to other Powers and that I could perceive no reason why they should not advise His Royal Highness to affix his Royal Seal to such a treaty. I spoke twenty-five minutes. The Minister of Foreign Affairs and the Minister of Interior were opposed to the term of ten years. They believed that the new treaty would carry jurisdictional rights under the most favored nation clause in Section III, even after the termination of the French treaty in the year 1918. I endeavored to prove that with the cessation of the French treaty all rights dependent upon it must of necessity terminate. . . . The conference was conducted in a dignified manner and was quite impressive. The President then informed me that it would be necessary to have a secret session and that I would be informed of its deliberation. After shaking hands with each Minister, I was escorted to the court-yard by the Minister of Foreign Affairs. He asked if I would absolutely refuse to sign for a term of four years. I replied that I had no authority and that it would be necessary to communicate with my Government for instructions. I couldn't help but feel at a great disadvantage in not speaking the Abyssinian language but I learned that not one of the foreign representatives in Adis Ababa speaks the language.

AUDIENCE WITH PRINCE LIDJ YASSOU

On the 6th of June the Minister of Foreign Affairs sent word by our interpreter that the Prince would receive me at his private residence at 4 P.M. Upon my arrival I was received immediately by His Royal Highness. He was seated upon a sofa but came forward and shook hands upon my approach. He wore a pajama suit of white cotton with a black silk bernous reaching his knees. He was

in his bare feet and wore no head-dress. We seated ourselves, followed by the Minister of Foreign Affairs upon receiving permission from His Royal Highness. My interpreter remained standing during the interview. The Minister of Foreign Affairs spoke for the Prince and asked me to cable the President requesting as a special favor that the time of the treaty be changed to four instead of ten years. We discussed the treaty but I detected no intelligent comprehension on the part of the Prince until I stated that I had already cabled my Government and that I felt certain that our President would grant the Prince's request. He then smiled and expressed his thanks. The Minister then spoke practically as follows:—
[“]You have satisfactorily explained to me that the consular jurisdiction based upon the most favored clause in Article III of the treaty will cease upon the expiration of the French treaty. Some of the other Ministers do not understand it, but I do. The real reason why I now desire four instead of ten years is that our Government may be in a position to refuse other countries that desire to renew their treaties for a period of ten years. We have no objection to signing a treaty with you for ten years except for this reason; should the Prince sign your treaty for ten years he could not refuse other Powers. We desire to end all consular jurisdiction in four years and the Prince will greatly appreciate the assistance your President may give him. He has had much trouble with the British, French and Italian Governments on account of consular jurisdiction granted in the French treaty and we hope to come to some amicable settlement in 1918.” I replied that I understood the difficulties of the Abyssinian Government and that my Government would never seek to add to its troubles; that our countries had never had any friction and that I felt confident that such a proof of friendship in the granting of the special favor requested by the Prince would be instrumental in promoting the cordial relations between the United States and the Empire of Ethiopia during the reign of His Royal Highness. The Prince was very cordial when shaking hands and thanked me again.

Inasmuch as the Department's reply to my cable was in cipher, I was unable to read it in the absence of a Code at the Consulate-General. Later I requested the British Legation to transmit a message in code to the Department through its Embassy at Washington and received a reply on the 20th of June, authorizing me to change the period of the treaty from “ten” to “four” years, with instructions to insert, if possible, an automatic clause for the continuance of the treaty for periods of “ten” years in the absence of official

notice on the part of either of the contracting parties of their determination to terminate the treaty, sent one year before the expiration of said treaty. I at once communicated the substance of the cable to the Minister of Foreign Affairs through our interpreter and received from him the following message: "I am very glad to hear the good news and express my many thanks for the trouble you have taken to prolong the friendship between America and Abyssinia. When you desire the treaty to be signed let me know and I will appoint a day."

DIPLOMATIC INCIDENT AND APOLOGY BY THE MINISTER OF FOREIGN AFFAIRS

His Excellency the Minister of Foreign Affairs was well aware that I desired to leave Adis Ababa at the earliest opportunity but he took no steps to assist me; on the contrary he was seeking in every possible manner to defeat my efforts to secure the new treaty with his country. On the 23rd of June I again called upon His Excellency and urged him to fix a time when we could sign the treaty. He replied that it would be either on the 24th or the 25th of the month. I received word from our interpreter that the treaty would be signed and sealed at 10 o'clock, a.m., on the 25th in the presence of all the Ministers of the Council. Accordingly I rode to the appointed place, near the residence of the Minister of War and found all of the Ministers present except His Excellency the Minister of Foreign Affairs. I waited for over an hour and then addressed the Council. I stated that I had come there by appointment made by the Minister of Foreign Affairs for the purpose of completing the negotiations of the new treaty. I pointed out to them that their absent colleague did not appear to appreciate that he was dealing with a representative of the President of the United States of America; that he was evidently not aware of his responsibilities and that I considered his absence, especially without sending any reason for it, to be a direct affront to my Government and I also added that His Excellency did not seem to have much respect for his colleagues. The President of the Council said that he was sorry the Minister was not present and hoped I would not be angry with them. I hastily observed that my remarks did not apply to any of the Ministers present but on the contrary I desired to express my appreciation at their presence and unfailing courtesy in all of my relations with them. I explained that it would be necessary to inform my Government of this incident and that I couldn't continue to remain accredited to their country in the absence of proper respect shown my position. The President requested twenty-four hours in which to make proper amends, stating that this was not

the first time His Excellency had failed to keep his appointments with them on official business and that they did not seek to condone his offence. I told him that I would wait 24 hours before taking steps to assert the dignity and rights of my office. I then retired after shaking hand[s] cordially with each Minister.

I decided that it was necessary to have an audience with the Prince and explain to him the gravity of His Excellency's offence. Accordingly my interpreter was sent in advance to arrange an interview and I followed with my guards. When about half way to the residence of the Prince I noticed a large cavalcade and upon drawing near observed His Excellency in the centre surrounded by his servants, soldiers and concession hunters. In fact he is always accompanied by such an escort and most of his business with concession hunters is done on the road in informal conversations. I rode to the left of the center of the road. His Excellency left the escort and approached apparently disturbed. I saluted him not at all cordially and immediately demanded an explanation of his failure to keep the morning's appointment. I asked him if he knew that he was dealing with a representative of the President of the United States of America upon a matter that required serious consideration. I stated that his conduct was inexplicable and that I couldn't but regard it as insulting to the dignity of my position. I waited a moment for his reply. He said that he had been unable to find the Keeper of the Royal Seal and so thought it was useless to come to the meeting as the treaty could not be sealed as promised. He acknowledged that he was in the wrong in not sending notice to me and his colleagues. . . . I then said to him that this incident could only be closed in one way, viz., that he must come at 3.00 p.m., to the Consulate General and there make an apology, otherwise I should be constrained to take the question up with His Royal Highness and my Government and I expressed my opinion that the issue would not be very beneficial to him. He promised to come and said to the interpreter: "For God's sake, help me out of this difficulty; I did not mean any offence to the Consul-General." I took leave of His Excellency and returned to our residence. In the afternoon, promptly at 3.00 much to my surprise, the Minister came to the Consulate-General with a large escort which was left at the gate.

His Excellency approached the house very slowly with down-cast head, evidently absorbed in thought. I met him at the door and escorted him to the reception hall. I then waited for him to speak. He then made a dignified and appropriate apology and expressed the hope that I would not bear any malice toward him. I assured him that the incident was closed and commended his spirit in settling the matter so quickly. We shook hands and he appeared to be greatly relieved. I was greatly pleased with the successful outcome of my

demand and felt that I would have no more trouble with His Excellency. It was agreed that the treaty should be signed at a meeting of the Council of Ministers on the 26th of June 10.00 a.m., in a tent near the residence of the Minister of War.

MEETING WITH THE COUNCIL OF MINISTERS

Promptly at ten o'clock on the 26th of June I met the Council of Ministers. It is to be noted that it is not customary in Abyssinia for the Ruler to sign his name to a treaty or other official document. The Royal Seal is affixed by the Keeper of the Royal Seal upon the express and direct order of His Royal Highness. A failure in the performance of his duty brings the penalty of death to the Keeper of the Royal Seal. I produced the two copies of the proposed treaty, written in Amharic and English, side by side, the Abyssinian text coming first in the copy for the Abyssinian Government and the English text first in the copy for our Government.

The Minister of Finance read aloud the entire treaty, article by article, to which the Ministers gave a most attentive and respectful hearing. He then began an attack upon the automatic clause in Art. VI, whereby the treaty would continue for a period of ten years in the absence of official notice of the intention to terminate the treaty, sent one year before the expiration of the proposed treaty in four years. He contended for a four-year treaty, absolute and unconditional. He pointed out that after two years the automatic clause would be forgotten and no notice would be sent. The Minister of Foreign Affairs replied that the foregoing remarks reflected upon his personal ability and integrity to guard the treaty rights of his country; he added that he would have His Excellency the Minister of Finance know this was a matter for the Foreign Department, which he was capable of conducting without any assistance. There was an ominous silence. The enmity between these Ministers is of common knowledge. Fortunately there was this friction, otherwise I believe it would have been necessary to have stricken out the said automatic clause.

Art. VII. Two of the Ministers objected to the term of one year in which to give notice of ratification to His Royal Highness. I am informed by our interpreter that the Amharic text of our former treaty read "six months" while in the French text it was "one year". This an explanation why one of the Ministers held out for "six months". The other Minister, however, said that if the treaty were not ratified for a year it would mean that the four-year treaty practically continued five years, thus extending a year beyond the time for the termination of the French treaty. I attempted to show that the period of one year was a provision for an emergency and

that my Government would ratify the treaty at the earliest opportunity. I stated that I couldn't believe the Ministers would lay any stress upon such an immaterial point, especially after the President had granted them a favor by changing the term of the treaty to "four" years. These Ministers could not be changed and as I desired unanimous vote on the treaty I consented to the term of six months, believing that there would be no difficulty in getting notice to His Royal Highness within that period of time. It was, therefore, necessary to re-write the texts of the treaties.

I told the Ministers that I had come to the meeting, confident that the treaty would be signed and sealed on this day. I stated that I had made all arrangements for my departure on the following day, that my caravan was waiting and that it would be a great inconvenience if I should be compelled to remain any longer. They all exclaimed: "Come tomorrow morning at 8.00 o'clock and the treaty will be signed. You can then proceed at once on your journey; come dressed for the trip on your mule". I replied that I should take them at their word. I then thanked them for their courtesy and expressed the hope and confidence that the new treaty would bring with it an increased trade between our countries and a re-newed continuance of our cordial relations.

SIGNING AND SEALING OF THE TREATY

The summer rains had already commenced and I feared that my delay might bring on again an attack of rheumatism with serious consequences, but I was determined not to leave without this treaty, signed and sealed.

During the entire night of the 26th, the rain fell incessantly. On the following day, therefore, the roads were in a very bad state and the streams were swollen. It was necessary to ride two hours in a heavy rain, to cross several brooks and ford three streams, to climb four hills before reaching the home of the President of the Council, where it was arranged the treaty should be signed and sealed.

Upon my arrival at 8:15 in the morning of the 27th of June, I was met by Mr. Leon Chefneux, a Frenchman who has been connected with the Abyssinian [court?] for many years. I believe he was of considerable assistance to Consul-General Skinner in the negotiation of our first treaty with the Ethiopian Empire. It is a pleasure to acknowledge my appreciation of his valuable encouragement and suggestions at times when I believed it useless to continue negotiations. . .

The Minister of War was awaiting me, seated on a raised platform covered with rugs, in a very large, high-posted building con-

taining only one room. It was the place where he dispensed justice. One felt as if being in a sanctuary; the light was dim and there was a chill in the air,—some glowing wood-coals in a brazier in the center of the room gave out a little warmth. I talked with His Excellency, while awaiting the arrival of the Minister of Foreign Affairs with the Keeper of the Royal Seal. An hour passed and he did not come. I sent my interpreter to the residence of the Prince with instructions not to return unless he brought the Minister. In an hour the Minister arrived but made no comment upon his lateness. I said nothing to him but told the interpreter to look for the Keeper of the Royal Seal. I felt that something was about to happen to again delay the signing of the treaty. In a half hour the interpreter returned with the Keeper of the Royal Seal. He reported that the Keeper of the Royal Seal informed him that the treaty would not be sealed except at the residence of His Royal Highness, who had so ordered it. In the meantime the French Minister had called by appointment and was having a conference with the Ministers of War and Foreign Affairs.

I waited several minutes, then sent my card to the Minister of Foreign Affairs with a message to the effect that my appointment preceded that of the French Minister and that if His Excellency did not at once return I should be compelled to return to my residence. He broke off the conference with the French Minister and came to me. I sat at a table with pen in hand as if to sign the treaty. The old Keeper of the Royal Seal beckoned the Minister of Foreign Affairs and spoke a few minutes with him, evidently explaining that he could not affix the Royal Seal except at the residence of the Prince. The Minister was not [at] all surprised and I have wondered whether it was not a part of his plan to postpone again the signing with the hope that my patience would be exhausted and that I would depart without the treaty. The President was informed that the Prince desired that the Treaty be signed and sealed at his residence; he at once gave his approval. It was decided that we ride at once to the Hot Springs where His Royal Highness was then taking a cure.

I had rather given up hope of securing the royal seal that day and was prepared to hear a new excuse for postponement. I was wet and covered with mud when we reached the group of buildings that served as the temporary residence of the Prince. A small bedroom was placed at my disposition where I might rest until the Prince could be seen; it had a small bed and one chair in it.

Mr. Chefneux and my interpreter accompanied the Minister of Foreign Affairs and the Keeper of the Royal Seal to the House of the Prince. He was at that time taking the cure and could not be disturbed. When he was able to receive them, he gave orders to the

Keeper of his Royal Seal to affix it to the two copies of the treaty. This was carried out in the room where I had been waiting for an hour. I then signed the two documents and handed one to the Minister of Foreign Affairs. There were present His Excellency the Minister of Foreign Affairs, the Keeper of the Royal Seal, Mr. Leon Chefneux who assisted the Keeper in making the impress of the Royal Seal on the treaties, Mr. Tadla, the interpreter and myself. The time was twenty minutes before one o'clock. The translation of the Amharic characters on the Royal Seal is as follows: Yassou Son of Menelik II King of Kings of Ethiopia.

The Minister of Foreign Affairs said that he hoped I was not angry at him for all the annoyances he had caused me. I replied that whatever feelings I had entertained during the negotiations, were now forgotten with the final completion of our work. I wished him a long and prosperous life. I requested him to express my sincere thanks to His Royal Highness for continuing our treaty relations, which had been initiated by the great Emperor Menelik II, his grandfather and our former President, Theodore Roosevelt. I asked him to also convey my regrets that His Royal Highness was not in good health, but that I hoped he would soon be well and have a long, happy and successful reign in the Empire of Ethiopia. We then shook hands most cordially and exchanged farewell greetings.

JOHN Q. WOOD

WASHINGTON, *September 1, 1914.*

711.842/10

President Wilson to Prince Lidj Yassou of Ethiopia

GREAT AND GOOD FRIEND: In conformity with Article 7, thereof, I have the honor to notify Your Royal Highness that I had the pleasure on September 19, 1914, to ratify, by and with the advice and consent of the Senate, the Treaty of Commerce between the United States of America and Ethiopia which Your Royal Highness signed with the Plenipotentiary of the United States at Adis Ababa on June 27, 1914.

Owing to ill health it is not possible for the Plenipotentiary of the United States to return to Abyssinia at this time for the purpose of placing this notification and my instrument of ratification in the hands of Your Royal Highness. I have therefore entrusted their delivery to Colonel Charles H. M. Doughty-Wylie, C.M.G., the Chargé d'Affaires of Great Britain at Adis Ababa, who, with the permission of his Government, has kindly consented to fulfill this

requirement. I therefore request Your Royal Highness to receive him favorably for the execution of this mission on my behalf.

I am happy to avail myself of this opportunity to assure Your Royal Highness of my best wishes for your personal welfare and for the prosperity of Ethiopia.

May God have Your Royal Highness in His wise Keeping.

Your Good Friend,

WOODROW WILSON

By the President:

ROBERT LANSING,

Acting Secretary of State.

WASHINGTON, October 14, 1914.

711.842/14

Prince Lidj Yassou of Ethiopia to President Wilson

[Translation]

TO HIS EXCELLENCY MY GREAT FRIEND WOODROW WILSON.

President of the United States of America.

After my respectful Greetings.

I have the honour to inform you that I have received through Colonel Charles H. M. Doughty Wylie, C.M.G., His Britannic Majesty's Chargé d'Affaires in Adis Ababa, Your Excellency's Autograph letter of notification, together with the Instrument of Ratification sealed with the seal of your Government informing me of your acceptance of the Commercial Treaty which was signed on the 20th Sani 1906 (Abyssinian date) 27th June 1914 (European date) between the Ethiopian Government and the Plenipotentiary of the United States of America.

I pray from my heart to Almighty God for the prosperity of the United States of America and for your personal welfare.

May God give you a long life.

Written 15th Tehsass 1907 (Abyssinian date) Year of Grace Adis Ababa.

24th of December 1914 (European date) Adis Ababa.

[SEAL OF PRINCE LIDJ YASSOU]

711.842/18a

The Secretary of State to President Wilson

WASHINGTON, August 11, 1920.

MY DEAR MR. PRESIDENT: This commercial treaty with Ethiopia, which was signed on June 7 [27], 1914, and ratified by you Septem-

ber 19, 1914, stipulates that it "shall take effect if ratified by the Government of the United States, and that this ratification shall be notified to His Royal Highness Prince Lidge Yassou, successor of Menelik II, King of Kings of Ethiopia within the period of six months." This notification was given on December 20, 1914, within the limitation specified in the treaty, and the treaty has been in effect since that day. It has not, however, been heretofore proclaimed, owing to the fact, as has been explained to me, that the notice of fulfillment of the requirement abovementioned was inadvertently placed in the Department's files and buried without being brought to the knowledge of the proper office. It has, by accident, just been brought to light. While, as stated, the treaty has been in effect since December 24, 1914, it is thought that all formalities should now be completed by your proclamation of it,³ in order that it may appear in the Statutes at Large as a proclaimed treaty.

Faithfully yours,

BAINBRIDGE COLBY

Treaty Series, No. 647

*Treaty of Commerce between the United States of America and Ethiopia, Signed at Addis Ababa, June 27, 1914*⁴

His Royal Highness, Prince Lidge Yassou, successor of Menelik II, King of Kings of Ethiopia and the United States of America, having agreed to regulate the commercial relations between the two countries and develop them, and render them more and more advantageous to the two contracting Powers:

His Royal Highness, Prince Lidge Yassou in the name of the Empire and John Q. Wood, in the name of the United States of America, have agreed and stipulated that which follows:

ARTICLE I

The citizens of the two Powers, like the citizens of other countries, shall be able freely to travel and to transact business throughout the extent of the territories of the two contracting Powers.

ARTICLE II

In order to facilitate commercial relations, the two Governments shall assure, throughout the extent of their respective territories, the security of those engaged in business therein, and of their property.

³ It had, however, been proclaimed on Aug. 9, 1920.

⁴ In English and Amharic; Amharic text not printed. Ratification advised by the Senate, Sept. 15, 1914; ratified by the President, Sept. 19, 1914; Prince Lidge Yassou notified of ratification, Dec. 20, 1914; proclaimed, Aug. 9, 1920.

ARTICLE III

The two contracting Governments shall reciprocally grant to all citizens of the United States of America and to the citizens of Ethiopia, all the advantages which they shall accord to the most favored Power in respect to customs duties, imposts and jurisdiction.

ARTICLE IV

Throughout the extent of the Ethiopian Empire, the citizens of the United States of America shall have the use of the telegraphs, posts and all others means of transportation upon the same terms as the citizens of Ethiopia or of the most favored foreign Power.

ARTICLE V

In order to perpetuate and strengthen the friendly relations which exist between Ethiopia and the United States of America, the two Governments agree to receive reciprocally, representatives acceptable to the two Governments; Diplomatic representatives appointed by either Government who are not acceptable to the Government to which they are accredited shall be replaced.

ARTICLE VI

This treaty shall continue in force for a period of four years after the date of its ratification by the Government of the United States. If neither of the contracting parties, one year before the expiration of that period, notifies officially its determination to terminate the treaty, it shall remain in force for a further period of ten years; and so on thereafter unless notice is given officially by one of the contracting Powers, one year before the expiration of said period, of its intention to terminate said treaty.

ARTICLE VII

The present treaty shall take effect if ratified by the Government of the United States, and if this ratification shall be notified to His Royal Highness Prince Lidj Yassou, successor of Menelik II, King of Kings of Ethiopia within the period of six months.

His Royal Highness Prince Lidj Yassou in the name of his Empire; and John Q. Wood in virtue of his full powers, in the name of the United States of America, have signed the present treaty, written in double text, Amharic and English and in identical terms.

Done at Addis-Abeba, this twenty seventh day of June, one thousand nine hundred and fourteen, in the year of our Lord.

JOHN Q. WOOD

[SEAL OF PRINCE LIDJ YASSOU]

GRANT OF PETROLEUM RIGHTS TO THE ANGLO-AMERICAN OIL
COMPANY, LIMITED, UNDER THE BAGHDASSARIAN CONCESSION IN
WESTERN HARRAR

884.6363/2

The Consul General at London (Skinner) to the Secretary of State

No. 9716

LONDON, June 8, 1920.

[Received June 21.]

SIR: I have the honor to refer to my telegram of June 7, 1920,^s stating briefly that an exploring party representing what is to all intents and purposes, the Standard Oil Company, would reach Aden within the next few days en route to Abyssinia, and suggesting that the American Consul at Aden who is understood to have Abyssinia more or less under his observation, be instructed to accompany the party, in order that the real solidity and importance of the undertaking might be understood, or more particularly in order that our fellow citizens might have some American official representative on the spot in the event of any discussions arising between them and the Abyssinian Government.

For the further information of the Department, I am enclosing herewith a copy of a letter dated June 7, 1920, addressed to me by Mr. Charles E. Dudley of the Anglo-American Oil Company, Limited. The Anglo-American Oil Company, as the Department no doubt knows, is a British Company practically owned by the Standard Oil Company. In this letter Mr. Dudley furnishes all useful particulars with regard to the Concession in Abyssinia and present plans for working it. The Concession is dated August 26th 1915 and one of its conditions is that work must be commenced before August 26th 1920. As the Concession was only brought to the attention of American Oil interests a few weeks ago, it was indispensable that practical steps be taken immediately, and therefore a steamer has been despatched to Jibuti with oil-drilling machinery on board and an exploring party have already proceeded on a passenger steamer as stated above.

I look upon the enterprise as the most important commercial undertaking ever organised for business purposes in Abyssinia, as it is backed by an abundance of capital and represents no political interest of any character. It seems to me, therefore, very important that during the initial stages of the exploration, we should have someone in Abyssinia to whom our fellow citizens can appeal in certain circumstances and while the presence of the American Consul at Aden would answer all immediate requirements, I suggest that the time has come when we should be permanently represented at Addis-Ababa.

^sNot printed.

As the Department knows, for many years we have had a very large trade in Abyssinia in American sheeting, indeed the largest trade of the country, and we are importers of the few raw products which Abyssinia has to sell.

The American Oil interests now under consideration have taken up a Concession for a comparatively small area, but it is proposed to explore the country thoroughly, and if oil is found in sufficiently large quantities, to lay a pipe line to the coast and to make other arrangements for handling the business upon a comprehensive scale.

I am very hopeful that under these circumstances the Department will be inclined to take some action in the sense of the foregoing suggestions.

I have [etc.]

ROBERT P. SKINNER

[Enclosure]

*Mr. Charles E. Dudley of the Anglo-American Oil Company, Limited,
to the American Consul General at London (Skinner)*

LONDON, June 7, 1920.

DEAR MR. SKINNER: Following our conversation of to-day I beg to advise you of the following details of the Expedition now on its way to Abyssinia, in connection with a Petroleum Concession in that country.

Messrs. H. H. Topakyan formerly Persian Consul General in N. York, and Hagob Baghdassarian, brother-in-law of the present Emperess of Abyssinia and formerly Controller of the Mint in Abyssinia, are holders of a Mineral Concession including Petroleum, direct from the Abyssinian Government in the Province of Harrar, Abyssinia. This Concession is dated August 26th 1915 and runs for 50 years, but a special condition is that work must be commenced within a period of 5 years, that is before August 26th 1920.

Owing to the War the Concession holders have been unable to commence work and they approached the undersigned and associates with a view of obtaining assistance to not only validate the Concession by preliminary work, but also to actively develop same provided the conditions justify.

While the Concession covers all mineral rights in the Province of Harrar, the undersigned has only obtained the petroleum rights. The terms are that work is to begin as soon as possible, but not later than August 26th 1920. The Abyssinian Government is to receive 8% in value of any results obtained and the remainder is to be divided between the two Concession holders above and the undersigned, in the proportion of 25% and 75%. As a consideration, the

undersigned and associates have agreed to spend not less than £25,000 in the expense of an expedition to render the Concession valid, by endeavoring to develop the petroleum deposits if any.

A small expedition therefore, left Marseilles on the 5th inst. for Addis-Ababa via Jibuti. On arrival their first object will be to confirm the Concession rights with the Abyssinian Government and to announce their intention of immediately proceeding to work same. Following them, and leaving here not later than Thursday or Friday of this week, will be a competent oil-well driller and assistant, together with the necessary machinery for a preliminary test well. This apparatus and the personnel will go direct by steamer to Jibuti and from there to the interior. The first work will probably be done in the vicinity of Adde-Gala on the railway at a point about 9 miles from the line, and where petroleum indications have been reported.

A prominent member of the expedition is Dr. Barnum Brown of the American Museum of Natural History in New York, a scientist and geologist who has conducted several expeditions in the Western States, Cuba and South America for the American Institute and the recovery of fossil specimens of great value. Dr. Brown has written in the Geographic Magazine at some length on his previous expeditions. His work with this expedition will be to investigate the geological formation of the country comprised in the above Concession with a view to advising as to further development, if in his opinion, the indications will justify.

I am this morning in receipt of a letter from Hagob Baghdassarian from Marseilles urging strongly that, in view of the American character of the expedition, that the American Consul at Aden be requested to accompany the members of the expedition to Addis-Ababa and give them what official assistance he can. If this can be arranged it will be of great service, and should only be the forerunner of the appointment of a permanent representative of the American Consular Service at Addis-Ababa.

In this connection, and in order that time might be saved, I would strongly recommend that Major S. S. Rooney, an American citizen and late of the U. S. Army, who accompanies Dr. Barnum Brown, be at least temporarily appointed American Consular representative at Addis-Ababa until a successor can be appointed and reach the country.

With the above facts before you, I trust that you will be able to communicate with the Department in Washington in such a manner as will ensure the expedition being supported, as I feel that the interests involved are to a certain extent, national.

Thanking you [etc.]

CHAS. E. DUDLEY

123So.8/62 : Telegram

The Acting Secretary of State to the Consul at Aden (Southard)

WASHINGTON, July 3, 1920—1 p.m.

Referring to Department's June 11th, 6 p.m.⁶ Vice Consul Townsend has been ordered proceed Aden from Saloniki to take charge office temporarily. Upon his arrival you may proceed Abyssinia for visit. You should not proceed with the Anglo-American Oil party or do anything which would give them any appearance of being an official organization or having official support other than that which would be naturally extended to any American doing business in foreign country. However you will, of course, render them every assistance practicable.

ADEE

844.6863/18

The Consul at Aden (Southard) to the Secretary of State

No. 409

ADEN, September 6, 1920.

[Received October 6.]

SIR: I have the honor to refer to this Consulate's despatch No. 405 of July 29, 1920,⁶ and preceding despatches, on the above subject, and to submit the following additional information which was obtained during a visit just made by the undersigned to Abyssinia under authority of the Department's telegraphic instruction of July 3, 1:00 P.M., 1920.

The information given in this Consulate's despatches Nos. 391 and 400, of June 21 and July 19, 1920,⁷ respectively, relative to the H. M. Baghdassarian concession, appears to be generally correct after investigation on the ground. It has further been learned, however, that H. M. Baghdassarian, who is an Armenian resident in Abyssinia, obtained his mineral concession for the whole of Harrar province at a time about five years ago when the Prime Minister at Adis Abeba was a prominent Abyssinian chief known as Haile Giorgis. Lij Yasu was then the heir to the throne and nominal ruler of the country. Haile Giorgis issued the Baghdassarian concession and it appears to bear only his seal and not that of Lij Yasu. Upon the deposition of Lij Yasu in 1916 Haile Giorgis was thrown into chains and is to this day a political prisoner at Harrar, the capital of Harrar province.

When Ras Tafari became Prince Regent and actual ruler of the country he repudiated many of the acts of the ex-Prime Minister

⁶ Not printed.⁷ Neither printed.

Haile Giorgis. Other acts, such as certain concessions, were permitted to stand for the time being. Baghdassarian knew that his concession might be considered invalid as it lacked the seal of the then actual ruler of the country. The Armenian has a certain amount of influence, however, with Ras Tafari and his concession was permitted to stand until the current year when Tafari found that the existence of this old concession placed him in a difficult position as he was being very strongly pressed to issue to the Abyssinian Corporation, Limited, a concession covering Harrar province. The Corporation had first negotiated with Baghdassarian, as has been referred to in previous despatches, but no agreement had been reached although it has since been learned that Ras Tafari informed Baghdassarian that it was his desire that an arrangement be made with the Corporation.

Although Baghdassarian knew that the validity of his concession was questionable and that its continued existence depended more upon the goodwill of Ras Tafari than upon any legal right he continued to attempt to sell all or a part of it. He also knew that the Ras, as the result of strong pressure brought to bear by the British Legation at Adis Abeba, would approve and legalize any arrangement made with the Abyssinian Corporation in connection with his presumably invalid concession. He was, however, unable to make a satisfactory agreement with the resident manager of the Corporation and decided to take his concession to London. Ras Tafari knew of this and secured from Baghdassarian a promise that he would reopen negotiations with the London office of the Corporation . . . So far as can be judged from conflicting stories of what happened in London Baghdassarian did not approach the Abyssinian Corporation representatives there but, with the connivance of one H. H. Topakyan, who is referred to in this Consulate's despatch No. 392 of June 22, 1920,⁸ impressed the Anglo-American Oil Company to the extent that that company entered into an agreement with him for the exploitation of his Harrar concession. Baghdassarian must have known that Ras Tafari would be displeased that he had not carried out the original understanding relative to negotiating first with the London office of the Corporation, and would probably repudiate the concession as invalid on the ground that it had only the seal of the ex-Prime Minister Haile Giorgis. . . .

The British Legation and the Corporation officials evidently had advance notice of what they considered Baghdassarian's intention . . . and in April of the current year . . . [obtained] a new concession in their favor which would invalidate the original Baghdassarian concession. The Ras . . . issued a concession to the Corpora-

⁸ Not printed.

tion for the eastern half of Harrar province in consideration of a payment of an amount stated to be 20,000 pounds sterling by the Corporation. . . . Baghdassarian . . . did not notify the Anglo-American Company in London, . . .

However, the agreement was made and the Anglo-American Oil Company despatched, at considerable expense, an expedition to exploit the alleged Abyssinian oil fields. The arrival of this expedition at Aden and its journey to Abyssinia have been discussed in this Consulate's previous despatches. Upon arrival of the expedition in Abyssinia it was found that the Baghdassarian concession had been invalidated and that the Abyssinian Corporation, Limited, held a valid and legal concession for the most desirable half of the territory covered by the original Baghdassarian concession. The Anglo-American representatives were inclined at once to give up their project, but were encouraged by Baghdassarian to wait a while until he could arrange to obtain a new concession. He appeared to be making no headway in this matter and the Anglo-American representatives attempted to reach the Ras and negotiate directly for a concession. This they were unable to do owing to their lack of experience of how things are done in Abyssinia, which circumstance enabled Baghdassarian to prevent them seeing the Ras on business.

Such was the situation at the time the undersigned arrived in Adis Abeba the first part of August; and being appealed to by the Anglo-American representatives steps were taken to protect such interests as might seem to be their right. The undersigned applied for and obtained an informal audience with Ras Tafari for the purpose of discussing this and other matters of possible interest to the Department. The Ras stated definitely that he considered the original Baghdassarian concession invalid because it had not been issued in legal form. To this it did not seem discreet to offer any argument, but it was suggested to the Ras that an American company in good faith and at considerable expense had sent out an expedition to exploit the oil rights under the Baghdassarian concession, and that if the expedition had to return without having accomplished anything there would likely result an impression unfavorable to Abyssinia, and that his representations made to the undersigned on former occasions that he very much desired American enterprise in his country would appear to lack sincerity.

Ras Tafari then said that he would make it possible for the American company to work in Harrar province; that although he had already sold to the Abyssinian Corporation, Limited, a concession for the eastern half of Harrar province he would at once issue to Baghdassarian a new concession for the other half of the province under which the Anglo-American Oil Company could proceed to

work as originally agreed in London with Baghdassarian. The undersigned suggested that Baghdassarian apparently had not been honest with the Anglo-American Oil Company in the first instance and might refuse to deal with them under the new concession. He replied that if he issued the concession at all it should be to Baghdassarian as he felt that the latter was entitled to some recompense for the cancellation of his original, though invalid, concession for the whole of the province. . . . It was then suggested to Ras Tafari that the new concession issued to Baghdassarian should include an article specifying that the Anglo-American Oil Company should have the privilege of exploiting the oil rights under the agreement made in London with reference to the original and apparently invalid concession. After some argument the Ras agreed to this. In two days, a record time for Abyssinia, the issuance of the new concession was secured and it contains as "Article 19" the proviso that the oil rights shall be worked by the Anglo-American Oil Company under the agreement previously made with the company by H. M. Baghdassarian in London.

In insisting upon and obtaining this protection for the Anglo-American Oil Company the undersigned was careful, as instructed by the Department, to make it plain that the company had no official status but was merely receiving the official protection of its legal commercial rights to which it and any other American company operating abroad was entitled.

The concession issued to the Abyssinian Corporation, Limited, is for the "eastern half" of Harrar province, or for that part adjoining the British Somaliland frontier. The new Baghdassarian concession is for the western half of the province. The division had not been made and as it promised to be a delicate and difficult matter the Ras . . . informed the undersigned that the Baghdassarian-Anglo-American group would have to get together with the Corporation and make the division. If they could not agree he promised to arbitrate. This latter contingency was undesired as it would indefinitely delay matters. The Anglo-American representatives then met the Abyssinian Corporation representatives to discuss division and could not agree, as was to be expected. At the request of the Anglo-American representatives the writer then informally took up the matter with the British Charge d'Affaires at Adis Abeba, . . . It was suggested to this gentleman that the American group very much desired an amicable settlement and working arrangement with the Corporation and he was asked to use his influence with the representatives of the latter. He saw the point that if the Anglo-American group developed the Baghdassarian half of the concession the half possessed by the Corporation would at once become much more

valuable without the latter having incurred any expense for development work. Because of this and various other obvious reasons he saw that it was to British interest to use his influence towards an amicable settlement. He did so and an agreement as to the division of the province was arrived at and is now in the hands of Ras Tafari for approval. In the meantime the Anglo-American representatives are authorized to start prospecting work.

The territory in which the Anglo-American Oil Company will prospect for oil under the new Baghdassarian concession and the agreement with the Abyssinian Corporation, Limited, is the northern part of Harrar province bounded approximately as follows: on the north by the 11th degree of north latitude; on the south by the 9th degree of north latitude; on the east by the 43rd degree of east longitude; and on the west by the 40th degree of east longitude. The eastern half of this approximate district is included in the Abyssinian Corporation concession for all minerals and the western half is included in the new Baghdassarian concession which also is for all minerals. The privilege gained by the Anglo-American Company to prospect for oil only in that part of the district included within the Abyssinian Corporation concession is the result of compromise by which the Corporation is in return given oil rights in the southern half of the Baghdassarian concession. The Anglo-American territory is considered much the more promising for oil.

I have [etc.]

ADDISON E. SOUTHARD

FINLAND

TERMINATION OF HOSTILITIES WITH RUSSIA

Inquiries from the Government of Finland Regarding the Policy of the United States toward Russian Attacks on Finland—Decision by the United States to Refrain from Offering Advice to the Government of Finland—Conclusion of Peace between Finland and Russia

123 M 272/81 : Telegram

The Chargé in Finland (Magruder) to the Acting Secretary of State

HELSINGFORS, *March 20, 1920—noon.*

[Received 3 p.m.]

2. Minister for Foreign Affairs received me yesterday. I was also informally received by the President who warmly welcomed me to Finland and expressed the gratitude of the whole Finnish nation to the United States for having officially recognized the Republic of Finland. His Excellency also expressed deep appreciation of the assistance rendered Finland by the United States Food Administration. He then inquired whether the policy of the United States respecting Soviet Russia was to act in conjunction with France and Great Britain or to pursue its own independent course. I replied that I was not in a position to answer this inquiry inasmuch as I had no instructions respecting my Government's Russian policy. The President then said that he hoped our Government appreciated the difficulties Finland was meeting, as the result of the constant threat by its neighbor Bolshevist Russia, in pursuing the foreign policy of its choice.

MAGRUDER

861.00/6647

*Memorandum by Mr. F. L. Belin, Division of Russian Affairs,
Department of State*

[WASHINGTON,] *March 23, 1920.*

On Saturday, March 20, the Finnish Minister called at the Russian Division and left a copy of a telegram which he had received from his government which stated that the Bolsheviki had started attacks

on the Finnish frontier from Lake Ladoga to the Arctic Ocean, in five distinct sections. Mr. Saastamoinen stated that his government was very much troubled and would appreciate the advice of the American Government in this situation.

Acting on the verbal instructions of Mr. Polk, I informed the Finnish Minister today that the Latvian and Polish Governments had inquired¹ as to what would be the attitude of the United States Government in the event that they negotiated peace with the Bolsheviks and that they had been informed that as this Government was not in a position to furnish money, ammunition or supplies of any kind, it therefore did not feel in a position to give advice on this question, and that in general these governments should have to make the decision themselves.

The Finnish Minister was very grateful for this information which he said he would cable to his government at once.

F. L. BELIN

760d.61/14

The Minister in Norway (Schmedeman) to the Secretary of State

No. 1540

CHRISTIANIA, May 4, 1920.

[Received May 25.]

SIR: Referring to my despatch No. 1533 of April 23rd last,² in which I informed the Department that Finland and Russia had declared a truce for the purpose of discussing boundary questions, and that the Norwegian Government had informed Soviet Russia and Finland that it desired an opportunity to be heard in case the negotiations between Finland and Russia should touch on the question of boundary regulations in the Petsjenga district, I have the honor to report that the Minister for Foreign Affairs informs me that replies have now been received from the two governments.

The Russian Government states that the boundary lines on the Norwegian frontier will not be changed, and in a Note received from the Finnish Government through its Minister in Christiania it is stated that Finland maintains that the matter of boundary regulations in the north is a question which concerns only Finland and Russia, as Norway renounced all rights to the territory in question by a treaty with Russia in 1826, and that after Russia and Finland have come to an agreement, Finland will then discuss boundary lines with Norway, but not before.

I have [etc.]

A. G. SCHMEDEMAN

¹ Vol. III, pp. 644 and 376, respectively.

² Not printed.

760d.61/40

Memorandum by the Minister in Poland (Gibson), temporarily at Washington

[WASHINGTON,] May 24, 1920.

The Finnish Minister called this afternoon, stated that he has a telegram from his government to the effect that the Bolsheviks are massing troops in eastern Karelia, and have reached a place called Uhtua.

The Finnish Government feels that it must make an early decision as to concluding peace with the Bolsheviks, and is most anxious to have an expression from the Department as to the desirability of this course.

I told him that in view of the fact that this Government was not in a position to give material assistance, it would hardly feel warranted in offering advice as to the course to be pursued.

The Minister raised the question of sending American warships to the Gulf of Finland, saying that this would afford great moral support to the Finns. I told him I doubted very much whether we should be in a position to send any ships.

The Minister repeated what he said the other day, to the effect that his government had little faith in the observance of any treaty signed by the Soviet Government but that in the absence of some expressions of opinion tending to show that Finland was not abandoned by the Powers, radical clamor for peace negotiations might force the hand of the Government.

H[UGH] G[IBSON]

760d.61/14

The Secretary of State to the Minister in Norway (Schmedeman)

No. 379

WASHINGTON, June 4, 1920.

SIR: Referring to your despatch of April 23, No. 1533,^a and May 4, No. 1540, having regard to the Norwegian interest in possible negotiations between Soviet Russia and Finland relative to boundary lines, you are informed that it is the opinion of this Government that no arrangements made with the Soviet authorities can be valid unless and until sanctioned at some future time by some recognized Government of Russia. This is for your confidential information and guidance as it may not appear politic to raise this question with the Norwegian Government without a specific case in view of the Spitzbergen award.

I am [etc.]

For the Secretary of State:

ALVEY A. ALPHEE

^a Not printed.



760d.61/22: Telegram

The Chargé in Finland (Magruder) to the Secretary of State

HELSINGFORS, August 14, 1920—6 p.m.

[Received August 15—12:20 a.m.]

61. Last night Finland and Russia concluded armistice effective from noon tomorrow for 31 days and terminable at any time thereafter upon ten days notice by either party. The old frontier with minor exceptions is accepted as demarcation line. Russia is denied navigable access to Gulf of Finland despite persistently maintained efforts of Russian delegates. Territorial claims remain unprejudiced. Paris informed my 21.

MAGRUDER

760d.61/26: Telegram

The Chargé in Finland (Magruder) to the Secretary of State

HELSINGFORS, October 15, 1920—8 p.m.

[Received October 16—2:15 a.m.]

70. Peace between Finland and the Bolsheviks was signed yesterday at Dorpat. By the terms of the treaty Finland acquires Petchenga but renounces her claim to Repola and Porajärvi which are granted a measure of autonomy. Resumption of commercial relations is in conclusion of subsequent commercial treaty. Treaty does not materially alter *status quo*. Peace is opposed by all parties except socialists and the extreme right which is commercial rather than aristocratic in character. The Government was induced to conclude peace at this time primarily owing to the withdrawal of Poland as a belligerent. Paris informed my number 23.

MAGRUDER

760d.61/31

The Finnish Minister (Saastamoinen) to the Acting Secretary of State

No. 12

The Envoy Extraordinary and Minister Plenipotentiary of Finland presents his compliments to the Acting Secretary of State and respectfully begs to advise that the treaty of peace between Finland and Russia became effective at 6:25 p.m. December 31, 1920.

WASHINGTON, January 4, 1921.

760d.61/87

The Finnish Minister (Saastamoinen) to the Secretary of State

No. 206

The Minister of Finland presents his compliments to the Secretary of State and in accordance with the request of his Government, has the honor to advise that pursuant to Article IV of the treaty of peace between Finland and Russia, the territory of Petchenga on the Arctic coast, was formally ceded to and occupied by Finland on February 14th, 1921.

WASHINGTON, *March 11, 1921.*

GERMANY

CONTINUATION IN FORCE OF THE ARMISTICE BETWEEN THE UNITED STATES AND GERMANY

763.72119/8679a

The Secretary of State to the Swiss Minister (Sulzer)

WASHINGTON, *January 13, 1920.*

SIR: I have the honor to request your good offices in transmitting to the German Government the following statement on behalf of this Government:

"The Government of the United States regards the armistice as continuing in full force and effect between the United States and Germany notwithstanding the deposit of ratifications of the Treaty of Versailles which took place in Paris on January 10, 1920."

For your information I have the honor to add that the substance of the above statement is being conveyed informally to the representatives of Germany in Paris by the American Embassy in that city.

Accept [etc.]

ROBERT LANSING

RELATIONS OF THE AMERICAN COMMISSIONER WITH THE GERMAN AUTHORITIES; GERMAN DESIRE FOR REPRESENTA- TION AT WASHINGTON

701.6211/479 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, *June 8, 1920—noon.*

[Received 7:55 p.m.]

588. In the course of informal conversation with Von Haniel, Under Secretary of State, he cautiously broached the subject of unofficial German representation at Washington to correspond to [this] commission. He hinted that reciprocity in this respect seemed only fair though he acknowledged there might be difficulties. In view however of the possibility of regular relations not being resumed for a considerable period, he thought such representation extremely desirable especially from point of view of commerce and passports. He added that the idea was personal with him and that the Cabinet had not discussed the matter.

Haniel's attitude was in no way aggressive and I gathered impression that even if the request were refused no objection would be made to continuance of commission here. I told him I had no indication of the views of our Government but that it might be thought at home that public opinion was not yet ready for such a step.

Shall appreciate instructions as to what answer should be made. It is possible that the subject was taken up at this juncture partly as a consequence of the arrival of Coffin and other consular officials.¹ In this connection see my 280 April 7, noon, last two sentences.² No doubt a favorable answer would leave us a freer hand here and might enable us to lay closer contracts [*contacts?*]. If proper safeguards are taken I am inclined to recommend adoption of a plan of the kind provided that no serious obstacles in the way of public sentiment or otherwise are against it. It would be necessary in any case to have it understood that any German mission in America must be used purely for business purposes and not as a propaganda bureau.

DRESEL

701.6211/479 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, June 18, 1920—1 p.m.

515. Referring to your telegram no. 588, June 8.

Department believes the present would be an unfortunate time to raise the question of unofficial representation of Germany in the United States, and leaves to your discretion the best way of bringing this viewpoint to the German Government's attention to the end that public and official discussion of the question may be avoided.

COLBY

862.00B/2 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 31, 1920—8 p.m.

[Received August 1—5:52 p.m.]

911. Minister Simons stated to me that Kopp, Bolshevik representative here, was urging the Foreign Office to accord to him and

¹ The Department had instructed Dresel on May 12: "Coffin and other officers for present are considered part of Commission, and their offices wherever established should be considered as branches of the Commission and not as having a consular character. . . . Consular officers in Germany should not perform any consular work other than passport and visa and submission of economic observations. Spanish Consuls still in charge American interests and will perform consular functions." (File no. 123 C 651/183.)

² Not printed.

his assistants similar privileges to those enjoyed by this Commission here. In especial Kopp asked for admission to the diplomatic gallery at the Reichstag to which this mission has had access. Simons expressed himself as somewhat embarrassed how to meet this request and consequently asked that Commission should give up their tickets and agree to take places in the gallery reserved for members of the Bundesrath. I readily agreed to this and to my question whether we could by giving up other privileges of the kind assist the German Government, he assured me that he knew at present of nothing else.

DRESEL

862.00B/3 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 2, 1920—11 a.m.

[Received August 3—9 : 32 a.m.]

915. In connection with my 911, July 31, 8 p.m., please refer to my 588, June 8, noon. While Simons did not refer to question of reciprocal privileges in America I do not doubt that this was largely responsible for his attitude.

DRESEL

711.62/18 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, August 7, 1920—4 p.m.

[Received August 9—5 : 55 p.m.]

932. My telegrams 911 of July 31 and 915 of August 2. After my reported conversation with Simons he made statement August 2 substantially as follows to German press representative[s]:

Our relations with America are not unpleasantly [omission]. American commercial people satisfied to reestablish intensive business relations. Germany must, however, insist on restoration of state of peace before initiation of any kind of official negotiations. I have left unofficial American representative, whom I can as yet regard only as a private person, in no doubt on this point. [Although we are] fortunately on friendly terms with American people, crystallization [sic] is possible only with reestablishment of normal conditions.

I took the first opportunity to ask Simons what he meant by "official negotiations", saying I could not imagine to what this referred and could not understand why such a warning was thought

necessary. Thereupon he denied that the statement was authentic and said his words had been distorted. I referred then to the subject of our talk transmitted in my 911 of July 31 whereupon he acknowledged frankly that his entire difficulty was refusal of reciprocity regarding unofficial representation of Germany in the United States. I replied that decision regarding continuance of this Commission rested of course entirely with his Government and that I could not properly suggest again to Washington establishment there of a German Commission. If the German Government considered the advantages of this Commission's existence were more than counterbalanced by the embarrassment he had mentioned, he had only to say so and I should recommend at once the withdrawal from Germany of all Americans except private persons. He answered that the principle involved was important and that Germany's dignity might be at stake. Therefore he desired to consider the matter over night but emphatically assured me that there had been raised no intrinsic [*sic*] question or criticism whatever by this Commission's activities which he said were acceptable entirely to the German Government. An hour afterward he told me that no further deliberation was necessary and that he was willing to have the Commission continue as previously.

I believe the incident is closed for the present. No further representations are likely if the present Government continues. It is quite likely that Simons' statements were inspired by pressure from the Right and that the subject might well be reopened if a reactionary government should come in.

DRESEL

128 D 811/10a : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, August 9, 1920—6 p.m.

920. Department is considering designation of you and Grant-Smith as High Commissioners. However such a change in your case at this time might give German Government an excuse for suggesting that it send a Commissioner here. Furthermore, it is understood that as representatives at Berlin from other nations have diplomatic rank, there is not the contrast between High Commissioner and Commissioner as exists at Budapest. Cable frankly your preference and views on advisability of such change.

COLBY

123 D 811/11 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, August 11, 1920—5 p.m.

[Received August 12—11:05 p.m.]

957. Department's 920 of August 9. So far as I am concerned I see no sufficient reason for a change. In fact at present it might prove trying as I am very anxious not to make my position here the subject of further discussion. I have uniformly experienced considerate and courteous treatment here in diplomatic circles and from Government officials regardless of title. If Grant-Smith feels a more ornate halo would help him and strengthen his position, I should be heartily in accord. However, I do not aspire to such unaccustomed eminence.

DRESEL

862.00B/2 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, August 12, 1920—7 p.m.

950. Your telegram no. 911 of July 31. The Department has confidence in your judgment regarding advisability of acceding to request of Simons concerning Mission's privileges. You should, however, if opportune, tell him that this Government is surprised that he should have requested United States Commissioner to cede privilege of access to the diplomatic gallery which was accorded the Commission on its arrival. Request of Simons has, in at least one respect, placed the American Commissioner on a level with Soviet representative. It is also a further indication of failure of German Government to appreciate value and significance of participation of the United States in European affairs. This regrettable attitude of the German Government was made clear recently in Simons' remarks to you regarding Hines, your 910 of July 31, 6 p.m.,³ in reply to which Department's views were set forth in telegram to Paris of August 5 for transmission to you.³ If German Government should request further concession to enable it to gratify bolshevik representative's demands, report at once to the Department and await instructions.

COLBY

³ *Post*, p. 265.

GERMAN PROTEST AGAINST THE NOMINATION BY THE UNITED STATES OF AN ARBITRATOR FOR RIVER SHIPPING

870.811/16: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, *March 16, 1920—11 a.m.*

[Received 2:07 p.m.]

715. Mission. Referring to my telegrams 400, February 7, 8 p.m.; 503, February 18, 9 p.m. and 673, March 10, 6 p.m.⁴

I have received from Monsieur Millerand a note dated March 9 of which the following is a translation:

"As president of the Peace Conference and in the name of the British, French, Italian, Belgian, Greek, Polish, Roumanian, Serb-Croat-Slovene and Czecho-Slovak Governments, I have the honor to beg Your Excellency to be good enough to transmit to your Government the following declaration:

'With a view to expediting the execution of certain duties entrusted to an arbitrator or arbitrators to be nominated by the United States of America by paragraph 6 of annex 3 of part 8 and articles 339 and 357 of the Treaty of Versailles and by paragraph 5 of annex 3 of part 8 and article 300 of the Treaty of Saint Germain and by article 228 of the Treaty of Neuilly-sur-Seine, the British, French, Italian, Belgian, Greek, Polish, Roumanian, Serb-Croat-Slovene and Czecho-Slovak Governments have the honor to request that the Government of the United States should immediately nominate the arbitrator or arbitrators independently of the position of the United States as a signatory of the treaties of peace, it being understood that no part of the expenses of the execution of these provisions of the treaties will be borne by the Government of the United States.'

The present declaration was adopted on February 14th by the report from the British, French and Italian Governments to the Conference of Ambassadors. The representatives of the Belgian, Greek, Polish, and Czecho-Slovak Governments adhered thereto by the letters of which Your Excellency will find copies herewith enclosed. On the other hand you have been good enough to inform me that the Roumanian and Serb-Croat-Slovene Governments notified you directly their adhesion to the proposed action.

I venture to hope that the Government of the United States will experience no difficulty in responding to the wish of the Powers. Please accept, et cetera."

WALLACE

⁴ None printed.

870.811/16: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 30, 1920—5 p.m.

866. Your urgent 715, March 16, 11 a.m. and 1027 April 20, 8 p.m.⁵

First: Please communicate to the proper parties that the President has nominated as arbitrator Mr. Walker D. Hines. He is just terminating his duties as Director-General of Railroads in the United States by reason of the return of the American railways to their private owners. We believe Mr. Hines exceptionally qualified for the satisfactory and expeditious conclusion of this work. He is both a lawyer and a transportation expert.

Second: It is suggested that you obtain such appropriate ratification or approval of this appointment from the powers concerned as you may consider necessary. In this connection it should be considered whether in the circumstances it is necessary or advisable to obtain the concurrence of the Enemy Powers.

Third: In bringing this matter to the attention of the powers interested please discuss informally the following points: Mr. Hines upon arrival at Paris will wish to discuss with interested parties the amount of time necessary for this work. He will be prepared to devote about ten months to it provided it develops in this discussion that important results can be accomplished within that time. We understand that the powers interested have expressed willingness to pay a salary at the rate of not less than \$25,000 a year to the arbitrator appointed and in addition a lump sum for expenses and allowances of \$5,000. We are inclined to believe that the arbitrator should be paid at same rate as Reparation Commissioner. Please discreetly suggest above views as to salary and report to us agreement reached. Please notify us also whether official traveling expenses in Europe will be paid in addition to allowance named. We believe lump sum stated for expenses would not be sufficient to cover official traveling expenses. Further notify us whether powers contemplate according arbitrator diplomatic status with freedom from local taxation.

Mr. Hines would contemplate sailing for Havre on June 9th on the Steamer *France*. Mr. Hines would endeavor to leave sooner provided his earlier personal presence would accomplish substantially greater expedition of the work. He anticipates that prior to his arrival he can arrange by cable for important preliminary work to be started. Suggest you consult Hudson⁶ also on this point.

Please repeat to Hudson, care Amembassy London.

COLBY

⁵ Latter not printed.

⁶ Manley O. Hudson.

870.811/45: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 31, 1920—6 p.m.

[Received August 1—10:47 a.m.]

910. In informal conversation, Minister Simons stated that the presence of Americans on commissions established [here?] was causing embarrassment to the Government. He mentioned especially the arbitrator of river shipping. In his view the appointment was technically invalid since as the United States Government has not accepted the treaty it could take no binding action in pursuance of its provisions. He would under the [other] circumstances have welcomed an American arbitrator but he considered that the formal exercise of authority by Hines was an invasion of German rights.

Von Haniel⁷ with whom I discussed the matter at length this morning tells me that Minister Seeliger of the Foreign Office left last night for the Rhine in order to confer with Hines and inform him of attitude of the German Government. Seeliger would suggest to Hines that the difficulty might be obviated by making Hines' decisions operative [if] America ratified the treaty. I told Haniel that the German point of view was, as I understood, contrary to the decision reached at the Council of Ambassadors and approved by our Government and that any reconsideration would have, as I believed, to go through Paris. He said that the question of making a formal protest would be decided later.

Though I received no direct intimation that other commissions were being considered in this connection it is obvious that objection may be made to American connection with other organizations in Germany as for instance the local Reparation Commission. See my 477 May 19, 4 p.m.⁸

DRESEL

870.811/45: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, August 5, 1920—5 p.m.

1336. For information of Embassy and Boyden.⁹ Send following to Dresel:

"Your 910, July 31.

1. Article 339 of Treaty of Versailles merely specifies that an arbitrator nominated by United States shall settle difficulties arising

⁷ German Under Secretary of State for Foreign Affairs.

⁸ Not printed.

⁹ Roland W. Boyden, American unofficial representative on the Reparation Commission, appointed in Mar. 1920 to succeed Albert Rathbone.

under Part VIII, Annex III, Paragraph 6, and under Articles 339 and 357. Question of American participation in Treaty is not involved more than Swiss participation because Article 304 Section A entrusts selection of arbitrator for Mixed Arbitral Tribunal to Gustave Ador. Under Article 339 United States has power to appoint arbitrator on own initiative and no request from Allied or German Governments was necessary to sanction validity of appointment of such arbitrator. However, special circumstances made it seem advisable to this Government not to exercise its prerogatives under the Treaty and consequently no action was taken until Allied Governments formally requested 'that the Government of the United States should immediately nominate the arbitrator or arbitrators independently of the position of the United States as a signatory of the treaties of peace.'

[Paraphrase]

The President nominated Hines upon this specific understanding. Hines functions in no manner as a representative of United States.

2. A convincing reason which led the President to accept request of Allies and appoint a man of Hines' technical and judicial distinction was that impartial and just consideration be given to legitimate claims of Germany which was helpless to assert German rights. The appointment was also of advantage to the Allies as Hines' prestige and qualifications would inspire general confidence in his decisions and thus prevent dissatisfaction and jealousies from arising.

3. Germany therefore has no basis for objections on practical and legal grounds. Such objections can be explained only by obtuseness to her own interests in impartial settlement of questions under arbitration or by the desire to cause friction among Allies. This Government cannot consider objections of Germany. It regards Simons' position either as evidence of lack of appreciation of American course of action or of conscious misconstruction of its attitude and lack of desire on Germany's part to cooperate in stabilization of present European conditions on a peaceful basis.

4. The view of this Government on American participation in the bodies growing out of Peace Treaty is that its position as one of the principal Allied and Associated Powers and its fundamental interest in solution of problems arising out of war gives the right to official or unofficial representation of the United States on all administrative bodies until ratification of Peace Treaty or other arrangement. The decision for participation of representatives of the United States was largely dictated by the desire for sane solutions of various questions arising under the treaty and for administrative interpretations which would impartially weigh the claims of economic necessities of Germany as well as of the Allies. This American attitude has been consistent. It has long been recognized by Germany as well as by the Allies. The position of Germany regarding participation of United States in bodies growing out of the Peace Treaty is definitely stated in memorandum of January 3 from German delegation to the Council of Ambassadors:

'In order to facilitate the suppression of the difficulties caused by the non-participation the United States of America in the establishment of the first *procès verbal* of the deposit of ratifications, the German Government wishes to continue to offer proof of its good faith. Until such time as it is known whether the United States will ratify the Treaty or not, the German Government is ready to let the Allies decide how the American representatives on the commission provided for by the treaty may be temporarily replaced.'

5. Present these views discreetly to German Government and ascertain the cause for present attitude. Are the Germans taking exception to any particular acts of Hines? If Seeliger has embarrassed Hines in any manner, proper amends should be made at once and complete disavowal made by Germany."

For the Embassy. Was the concurrence of enemy powers ever obtained to the appointment of Hines as arbitrator as suggested in the Department's 866 of April 30?

COLBY

870.511/49

The Swiss Chargé (Jenny) to the Secretary of State

Department of
German Interests
XXXIV Pr.

WASHINGTON, August 10, 1920.

SIR: By direction of my Government, I have the honor, herewith, to transmit to your Excellency the transcript of a cable from the Swiss Foreign Office concerning protest of the German Government against the nomination by the United States of the American citizen, Mr. Hines, as Arbitrator according to Article 339 of the Peace Treaty of Versailles.

I am also instructed to add that the German Government has always desired that normal relations with the United States be re-established, but that it can take another position in the present case only after such normal relations have been re-established.

I shall be happy to transmit to the Swiss Foreign Office, for communication to the German Government, any reply your Excellency may desire to make in the premises.

Accept [etc.]

DR. C. JENNY

[Enclosure]

The Swiss Foreign Office to the Swiss Legation at Washington

The American citizen, Mr. Hines, has been nominated arbitrator according to Article 339 of the Peace Treaty of Versailles. The German Government, although it had declared to the Allied Powers that it would deduce no difficulties from the non-ratification of the Peace Treaty by the United States, is constrained to protest that it should be subjected to the award of an arbitrator nominated by a

Government which is in a state of war with Germany. The German Government observes that it can not be expected to submit to what, in the light of the law of nations, is an enormity (*völkerrechtliche Ungeheuerlichkeit*). The German Government, however, would welcome the nomination of Mr. Hines as mediator between the German Government and the other interested parties in the question of inland navigation dealt with in the Peace Treaty.

870.811/48 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, August 10, 1920—8 p.m.

[Received August 12—9:30 (a.m.?)]

948. Department's telegram via Paris, August 5, 5 p.m. In the final sentence of paragraph one my 910, July 31, the words "the circumstances" should have been "other circumstances".

Discussed Hines' appointment yesterday at Foreign Office as directed but said that as the matter had now become the subject of an official protest by Germany, an answer from United States would be sent through diplomatic channels. Meanwhile more light on reasons for objection would be received gladly.

Haniel then said: 1. (in [addition] to what I had previously understood from Simons) Objection to the functioning of Hines was not because Germany considered the United States was not entitled to appoint arbitrator but solely because it was an amazing innovation on previous international practice and it was not consistent with the dignity of Germany to accept as arbitrator a citizen of a nation with which, technically, she was at war. 2. Germany would accept Hines gladly as mediator but not as arbitrator. 3. No personal objection whatever was raised. On the contrary he was considered well qualified for the position and impartial.

I replied to Haniel that the objection had occasioned some surprise and seemed very technical. I believed if it were persisted in, cooperation of the United States in aiding reconstruction, which her detachment from material considerations made especially fitting, would be rendered very difficult. Further, any change in machinery would imply obviously a modification of the Peace Treaty which would be difficult if not impossible.

I then talked with Seeliger who is conciliatory and reasonable with diplomatic training and objective point of view. He had just come back from interviews with Hines in Paris and on the Rhine which he described as wholly cordial. In accordance with his instructions he had told Hines of the objection which had been made

and had been informed by him that the question was for the Entente to settle. Seeliger had extended and satisfactory technical talks with Hines covering the entire scope of the work and was impressed by the latter's capacity to assume [responsibility?]. He would personally greatly regret non-continuation in office of Hines. Seeliger suggested that since for many months no decision by an arbitrator was possible owing to complication of involved issues, a state of peace would meanwhile have intervened which would obviate all difficulties. In answer to a question he said that about the middle of June he had been officially notified of Hines' appointment. From the manner of both Seeliger and Haniel I gathered that some Government circles considered precipitate Simons' action in forcing the issue though I could not obtain a direct statement to that effect. I personally consider the incident as a part of his pernicious activity against the Entente during past two weeks under pressure from Right. Appearances lead to the supposition that under a preconceived plan notice was to be given in every way practicable that Germany was ready to stand up for what she believed were her rights with object of strengthening the Government and consolidating the nation.

My belief now is that if the Allied Governments maintain a firm attitude the objection will not be persisted in as it is evidently against interests of Germany to unduly press the point.

DRESEL

870.811/47 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 12, 1920—8 p.m.

[Received August 12—7 p.m.]

1538. Department's 1336, August 5, 5 p.m. On June 7th last Secretariat General of Peace Conference advised German Government that, upon the request of Allied Powers that the Government of the United States should designate an arbitrator for purposes specified in articles 339 and 357 and in paragraph 6 of annex 3 of part 8 of Treaty of Versailles, said Government had named Walker D. Hines, and Secretariat General expressed desire of Allied Powers to see German Government appoint delegates who would represent it in its relations with arbitrator.

On July 12th, Secretariat of Peace Conference not having received advice as to appointment of German delegates again communicated with representatives of German Government on the subject calling their attention to fact that arbitrator was on the point of holding a conference at which it was desired to have various governments represented by their delegates.

On July 15th, German delegation advised that Messrs. Seeliger and Werrmann [*Woermann?*] had been designated as delegates plenipotentiary of German Government for all questions concerning the cession of the inland fleet citing paragraph 6 of annex 3 of part 8 and articles 339 and 357 of treaty of peace.

HARRISON

870.811/49

The Acting Secretary of State to the Swiss Chargé (Jenny)

WASHINGTON, August 31, 1920.

SIR: I have the honor to acknowledge the receipt of your note of August 10, 1920, with which was transmitted a transcript of a cable from the Swiss Foreign Office concerning a protest of the German Government against the nomination by the United States of Mr. Hines as arbitrator in accordance with Article 339 of the Treaty of Peace with Germany. Your note also contained the offer to transmit to the Swiss Foreign Office for communication to the German Government the reply of this Government in the premises.

I therefore avail myself of your offer and request that you kindly transmit to the Swiss Foreign Office for communication to the German Government the reply herewith enclosed.

Accept [etc.]

NORMAN H. DAVIS

[Enclosure]

The Department of State to the Swiss Legation

The Government of the United States is surprised to have been made the recipient of a protest on the part of the German Government against the appointment of Mr. Walker Hines as arbitrator in accordance with Article 339 of the Treaty of Peace with Germany. Since the appointment of Mr. Hines was made at the request of the Allied Powers, it appears that any observations on the part of the German Government regarding the appointment should have been addressed to these Powers. The Government of the United States is nevertheless willing to state its position.

Under Article 339 of the Treaty of Peace with Germany, the Government of the United States was given the power to appoint an arbitrator on its own initiative and no request from the Allied or German Governments was necessary to validate such an appointment. Owing, however, to special circumstances, it appeared advisable to this Government not to exercise its prerogative under the Treaty and consequently no action was taken until the Allied Governments formally requested that the Government of the United States should immediately nominate the arbitrator or arbitrators

independently of the position of the United States as a signatory of the Treaty of Peace. On legal and practical grounds there appears no basis for the protest of the German Government. The Government of the United States cannot therefore consider this protest which it regards as indicating on the part of the German Government not only a lack of appreciation of the course of action followed by the United States, but if persisted in, also a lack of desire to cooperate in the stabilization of present conditions throughout Europe on a peaceful basis.

870.811/54 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, September 1, 1920—2 p.m.

[Received September 2—2:23 p.m.]

1047. Department's [*Commission's*] 948. My August 10, 10 [8] p.m. In my first conversation with Simons since his return from Switzerland I again mentioned the German protest on Hines' appointment stating that this had created a distinctly unfavorable impression in Washington and that it was difficult to see why as a practical matter Germany should object to the functioning of so impartial an official as Hines. He thereupon said that Germany while a state of war was still outstanding could not admit that certain subjects should be treated by America as if peace had been declared and while German property was still held by the Alien Property Custodian as during the war. He suggested that if assurance could be given by the American Government as to this and some other matters which were left in abeyance the protest would be waived. He further emphasized that Germany was anxious to have an award made which would enable her to know where she stood on river shipping and was entirely opposed to interposing objections for delay alone. I did not pursue the subject further in the absence of instructions as to what answer will be given to the official German protest.

DRESEL

870.811/57 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 8, 1920—5 p.m.

[Received 11:17 p.m.]

1668. Mission. Referring to our 1667, September 8th, 4 p.m.,^s point 7. Substance of note sent by the Conference of Ambassadors to the German Government as follows:

^s Not printed.

"The Allied Powers cannot admit validity of arguments invoked by German Government. Articles 339 and 357 do not make designation by United States of one or more arbitrators dependent on ratification Treaty of Versailles by United States Government. Nomination of Hines only took place when United States was formally requested by Allies to exercise its prerogatives under the treaty and is therefore perfectly valid.

Under such circumstances the Conference is of opinion there exists no reason for not recognizing Hines' mandate which he has already so happily begun to exercise. Allies are firmly convinced that the German Government will accept their view point and will not maintain its opposition as latter would merely tend to delay still further reestablishment in Europe of stable economic conditions."

WALLACE

870.811/59

The Swiss Chargé (Jenny) to the Secretary of State

Department of
German Interests
XXXIV Pr.

WASHINGTON, October 1, 1920.

SIR: With reference to my note of September 2, 1920,⁹ acknowledging the receipt of your Excellency's note of August 31, 1920 regarding a protest of the German Government against the nomination by the United States of Mr. Walker Hines as Arbitrator, in accordance with Article 339 of the Treaty of Peace with Germany, and informing your Excellency of the transmission to my Government of the note in question, I now have the honor to enclose herewith the transcript of a cable from the Swiss Political Department with reference to the protest in question.

Accept [etc.]

DR. C. JENNY

[Enclosure]

*The Swiss Political Department to the Swiss Legation at
Washington*

According to a note from the German Legation in Berne, the protest of the German Government against the nomination of Mr. Walker Hines as Arbitrator was refused by the Conference of Ambassadors whereupon the German Government, under date of September 8th, replied to the Conference of Ambassadors as follows:

The note of the Conference of Ambassadors has by no means convinced the German Government that the protest raised by the latter against the nomination of Mr. Walker Hines as Arbitrator according to Article 339 paragraph 2 is without foundation. The

⁹ Not printed.

German Government has not altered its standpoint that the Government of the United States cannot be called upon to participate as arbitrator in the execution of the treaty as long as the latter has not ratified the treaty and consequently still is in a state of war with Germany.

As the German Government however attaches importance to seeing the uncertain condition of affaires [*sic*] created by the Treaty brought to an end and as it has no objections to raise against the expert knowledge and personal impartiality of Mr. Hines, it will not pursue further its objection to the applicability of the Treaty clause mentioned above.

PROTEST OF THE ASSOCIATED GOVERNMENTS AGAINST GERMAN IMPORT AND EXPORT REGULATIONS

662.008/11 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 3, 1920—9 p.m.

[Received March 4—12:21 a.m.]

614. I have received the following note from the Ministry for Foreign Affairs dated March 1.

"By a letter dated December 19 last the German Government was authorized by the Supreme Council to collect customs duties on a gold basis on the entry [of] goods into Germany. This measure was put into force on January 1, 1920 by the German Government.

At the same time the necessary negotiations concerning the question of prohibition of importation into Germany as also the question of exportation was to be opened and discussed [by] the divers interested powers, the question of the valorization of the customs duties was to be examined in full again if, within a time limit of three months, these negotiations had not reached conclusion considered satisfactory by the said powers.

At the moment of entering into these negotiations with the Germans, which negotiations must be concluded in an extremely short time, the Government of the Republic desires to remain in close contact with the Allied and Associated Governments which have to open up the negotiations. This is why it considers that while reserving for each of them the liberty of action necessary for the protection of their particular interests, the negotiations should be made on the following bases which are strictly in conformity with the stipulations of the peace treaty and are of a nature to establish a normal commercial regime with German[y] and one that is equal for all.

1. The German commercial regime comprises, at the present moment, both as regards importation and exportation, quite a serious prohibition or secret discriminations which must disappear because they are distinctly contrary to the clauses of articles 264 to 267 and 269 of the peace treaty.

2. The valorization given to the customs duties constitute[s] a considerable advantage granted to Germany since she has realized an increase of 900 per cent on the customs duties in paper marks. The valorization at present fixed on the basis of the dollar do[es] not constitute, moreover, merely an advantage for German[y] but also for the Allied and Associated countries which enjoy the most favorable exchange. On this account it is contrary to the spirit and the terms of article 269 since instead of re-establishing exactly the relative situation before the war it consolidates the inequalities which the war has caused. In order to be equitable on all points, the valorization should be established at different rates in accordance with the origin of the imports.

But whatever the rate of the valorization may be, the latter constitutes for Germany an effective protection which must not be aggravated by a too extensive system of prohibition.

3. In case the prohibition of certain articles should be recognized as necessary, this prohibition should be absolute, that is to say without any derogation whatsoever, so as to effect [*affect*] equally all the Allied and Associated Powers. If derogations are admitted, the latter should be authorized accordingly to a contingent to be established and divided among the divers exporting countries in proportion to their pre-war exportations. The Reparations Commission should intervene in the fixing of contingents.

4. As regards exportation, no discrimination should be made in tariff or otherwise, thus, the special derogation given by the offices of foreign commerce or by the imperial commissioner or by offices for the establishment of prices should disappear. According to the spirit of the treaty, Germany should not promulgate any prohibition unless the prohibition system comprises no option, i.e., no derogation.

5. However, Germany should be asked to prohibit the exportation of products which she has to restore in kind by virtue of the reparation clauses of the peace treaty. Germany should not be allowed to export freely these products until after the obligations laid upon her by the treaty have been completely fulfilled. As regards the other products no export duty can be applied unless it has been legally established and published in the official bulletin of the Empire [*Reich?*] some time before its putting into force. It goes without saying that such measures should apply to all destinations and that no intervention on the part of the German administration should be tolerated concerning the regime of the prices imposed on such purchases.

As the Government of the Republic has already commenced to neutralize the risk on these bases it would be pleased to know if the American Government adheres thereto."

A copy of this note has been transmitted to Rathbone^a for comment [there]on. Please instruct.

WALLACE

^a Albert W. Rathbone, Assistant Secretary, U. S. Treasury, in Europe to handle matters relating to reparations; unofficial representative on the Organization Committee of the Reparation Commission, after Jan. 10, 1920, the Reparation Commission; relieved by Roland W. Boyden, April 1920.

662.003/11 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 16, 1920—6 p.m.

539. Your 614, March 3, 9 p.m.

The Department desires that you transmit to the Minister for Foreign Affairs a communication in the sense of the following and furnish Rathbone copy thereof.

I have the honor to acknowledge the receipt of your communication of March 1, 1920, in which you set forth certain bases for negotiation with the Government of Germany with regard to the collection of German customs duties and with regard to certain other questions in relation to German exports and imports and in which you state that your Government would be pleased to be informed if the Government of the United States adheres to these bases. The Department of State has given careful consideration to your communication and in reply thereto presents the following considerations with respect to questions raised therein.

1. It is stated in your note that the German commercial regime at present contains certain prohibitions and discriminations in relation to exports and imports which should be eliminated, since they are in contravention of Articles 264 to 267 and Article 269 of the Treaty of Peace.

Briefly stated the effect of Articles 264 to 267 is to secure to the Allied and Associated Governments for a period of five years favored nation treatment in all matters relating to exports and imports. And Article 269 fixes a temporary maximum of rates of duty on imports from the Allied and Associated Countries. In the absence of definite information respecting the facts which in the opinion of the French Government constitute a violation of the Treaty, the Department is not in a position to reach any conclusion of its own as to what action may be warranted by such facts. If discriminations and prohibitions in contravention of the Treaty exist, the Allied and Associated Powers would doubtless be warranted in protesting against them.

2. The Department presumes that the French Government does not desire to have set aside the arrangement heretofore arrived at respecting the collection of German customs duties on a gold basis. The Department is not clear regarding the suggestion of your Government that the valorization given to customs duties in order to be equitable should be established at different rates in accordance with the origin of imports. Such a proposal seems in effect to contemplate a regime of discrimination based on local conditions in each of the Allied and Associated countries. The proposal appears clearly to be at variance with the principles underlying Articles 264 and 265 of the Treaty of Peace, the purpose of which is to secure complete equality of treatment among the Allied and Associated countries in the matters relating to imports into Germany. In the opinion of the Department not only would the plan proposed by your Government involve improper discrimination against some

countries but it would be impracticable for Germany as it would be for any other country to carry out any such plan.

3. The Department is in accord with the proposition that in case prohibition of certain Articles should be recognized as necessary, this prohibition should affect equally all the Allied and Associated Powers, it being understood by the Department that the meaning of this proposition is that Germany is not permitted to discriminate in any way against any Allied or Associated Power in matters relating to exports or imports. The Department is not entirely clear respecting the statement in your note to the effect that if derogations are admitted they should be authorized according to a contingent to be divided among the exporting countries in proportion to their pre-war exportations. The Department could not by any informal agreement waive the treaty rights of nationals of the United States relating to exports from or imports into Germany.

4. It is stated in your note that "the special derogation given by the offices of foreign commerce or by the imperial commissioner or by the offices for the establishment of prices should disappear". If the practices referred to are discriminatory so as to be in contravention of stipulations of the Treaty, they evidently should, as stated in your note disappear. Germany appears to have established through legislation and administrative action some control over importation and exportation. Such control in order not to contravene treaty stipulations must be general and uniform in its application. If exercised in harmony with this standard, it would appear that complaint based on the ground of treaty violation could not properly be made against it, since under the Treaty Germany is evidently permitted to exercise the ordinary sovereign rights over importation and exportation except as concerns the prohibitions contained in Article 248 with regard to the exportation of gold and subject to the stipulations contained in Chapter 1 of part X of the Treaty. The economic situation of Germany doubtless renders such control imperative. It may be to the interest of the Allied and Associated Governments that such control be exercised.

5. The proposals in paragraph 5 of your note with regard to measures to be taken with a view to assuring the execution of reparation clauses in the Treaty appear to involve certain questions of expediency and of legal rights which require careful consideration. The Allied and Associated Powers would apparently have no strict legal right to object to the exportation from Germany of articles which she is obliged to restore in kind, unless Treaty obligations in respect of the delivery of such articles should not be fulfilled. With regard to the proposal relative to the publication of export duties, it may be observed that there would apparently be no legal basis for making any such requirement on Germany. However it might doubtless be expected that such appropriate action will be taken by the German Government.

The steps to be taken to secure the execution by Germany of the Treaty must evidently be determined upon from time to time in the light of the German Government's attitude toward its obligations arising thereunder.

662.003/14: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 22, 1920—noon.

[Received 3:58 p.m.]

778. R-445 for Davis.⁹

1. Belgian, French and Italian delegates have addressed note dated March 16 to Conference Ambassadors reciting that these Government[s] are engaged in conversations with German Government concerning prohibitions respecting imports and exports from Germany in order to ascertain whether it will be possible for them to adhere to provisional agreement whereby Germany authorized to place her custom duties on gold basis, see my R-384¹⁰ and Embassy's 614.

2. Note complains that contrary to Articles 265 to 267 inclusive, German decrees of November 27 and December 24, 1919 vested authority exportation or importation in Commiss[ioner of the] Reich or Bureau of External Commerce which not only varies price merchandise exported different countries according to country but frequently changes price during course of exportation.

3. Note admits Germany has right fix prices merchandise exported at higher figure than for home consumption. Also admits Germany may forbid either exportation or importation any products or merchandise and that products forbidden exportation can be used for exchange (on barter principle) [only] with special authority Allied and Associated Powers. Note contends prohibition against import or export must be absolute and prices fixed must be equal for every one and must be published in advance and not be retroactive nor permit "intrusion of authority German[y] into a contract freely entered into". This last phrase is literal translation of French and apparently means that price fixed for exportation though higher than for home consumption not binding upon German exporters if they choose accept lower figure.

4. Note concludes with request from governments named to ambassadors to direct attention German Government to principles set forth in note which arise from conditions of treaty and which constitute base [*basis*] on which their negotiations are being made.

WALLACE

⁹ Norman H. Davis, Assistant Secretary, U. S. Treasury, from Nov. 1919 to June 1920.

¹⁰ Not printed.

662.003/14: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 1, 1920—6 p.m.

663. Your 778, March 22, noon. R-445.

This Government's views regarding general principles involved were stated in Department's 539, March 16, 6 p.m.

First. If as alleged your Paragraph Second German departments vary price of exports according to country such action would appear contrary to articles 264 to 267. Varying price "during course of exportation" would appear legal if not discriminatory but might be ground for informal protest if such action interfered arbitrarily with private contracts.

Second. Admission of German right to fix higher prices for exported goods and right to prohibit exportation or importation of merchandise (unless, it is assumed, in conflict with specific provisions of treaty) seems to be acceptance of principles contended for in Department's 539, March 16, 6 p.m. We are not sure we understand meaning and purpose of statement that "products forbidden exportation can be used for exchange on barter principle only with special authority Allied and Associated Powers". We assume statement refers to German regulations which might prohibit exportation of certain commodities unless exported on barter arrangements providing for importation of certain specific articles, which possibly might be obtainable in one foreign country rather than another. German regulations prohibiting such barter arrangement could not be taken to involve discrimination merely because they relate to products which in practice are obtainable from some countries and not from others, unless such regulations appear to be mere subterfuge for granting special treatment and evading treaty provisions. We feel there is possibly an underlying desire on the part of certain of the Allied Powers to force Germany to become a market for certain unnecessary commodities and luxuries. There would seem no reason why exportation and importation prohibitions should be absolute but such exceptions as might be made should involve no discrimination. Proposition mentioned latter part your Paragraph Third appears inconsistent with proposition in first sentence thereof, since any recognized German right to fix prices implies right to hold illegal any contracts contrary to such regulations.

Third. Department hopes Governments concerned will accept principles set forth in Department's 539 March 16, 6 p.m.

COLBY

763.72119/9859 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 14, 1920—9 p.m.

[Received May 15—12:44 a.m.]

1148. Mission. Technical Committee, appointed to study German commercial regime, presented its report at fortieth meeting of the Conference of Ambassadors held May 12 (see my 1147, May 14, 3 p.m.¹¹). Committee had held three meetings. We had only been notified of the holding of third meeting, Hodge¹² attended but deemed it wiser not to take part in drawing up a report based on taking of testimony and examination documents in which he had not participated and therefore withdrew from meeting.

Report starts off by admitting German right to place restrictions on imports and exports and to fix a higher price for merchandise exported than that for which it is sold for home consumption. These restrictions and differential prices, however, must not result in discrimination against the commerce of one or more of the Principal Allied and Associated Powers and the report finds that German Government's present system of control over imports and exports is such [as] to permit that Government to constantly violate the provisions of article 264 and following articles of German treaty. The Technical Committee, however, feeling that the German Government should be given all the initiative necessary to its commercial rehabilitation, thought that it should base its study of German commercial regime less on the objections of principle which have been raised against system of commercial control set up by German Government than on the violations of article 264 and following articles which were disclosed by Committee's examination of the facts. The findings of the report on this latter phase of the question consist mainly of form of law with scarcely any findings of fact to support them and in fact the report, which is a brief one, does not attempt to give specific instances as basis for all its conclusions. Since, as indicated above, we had no representatives at first two meetings of Committee, even assuming that Committee had before it the necessary evidence to support its conclusions, we cannot tell whether the Committee was justified in its findings. So far as the report shows it is possible that the evidence may have consisted of only one or two small matters in support of each simultaneously, which would be insufficient evidence on which to condemn whole

¹¹ Not printed.

¹² H. B. Hodge, American unofficial representative on the Valuation Service of the Reparation Commission.

German system or to make representations to German Government that treaty is being violated. I thought that Hodge might ascertain through British representative on Committee whether satisfactory evidence was, in fact, submitted in support of Committee's findings. As, however, British representative is in London, it was impossible to approach him on this question but as report was unanimous it may be assumed that he was of the opinion that findings were supported by satisfactory evidence.

Report concluded by submitting following propositions for consideration Conference.

"The findings of the Technical Commission, both on the basis of confidential documents and of original evidence, have brought the Committee to the conclusion that, although it is expedient to allow Germany in as full a measure as is compatible with the treaty of peace all liberty in forming its system of commercial control, this system must, nevertheless, undergo some changes in order to procure [*prevent*] the practices pointed out above.

The Technical Commission considers, however, that these changes should be as limited as possible, and that the following suggestions would be sufficient:

I. IMPORTS

1. Germany to remain free to issue general or limited prohibitions in conformity with the demands of her economic situation, but she is to give up the abuses of which she has been guilty hitherto in the issuing of individual licenses. In case it is impossible to make the prohibitions absolute, the system which without doubt would best prevent all discrimination would be that of fixing the allotments of imports which the German dealers might buy freely in any country they like up to the amount of the allotment fixed; the German States to cease all interference for the purpose of making or influencing a distribution of these purchases.

2. Germany to be able to subject the purchase of imports thus allotted to conditions of credit, exchange, etc., provided that these conditions, which must be published in the journal of the laws of the Empire, be uniform for all countries of export or origin.

II. EXPORTS

1. Germany's power to establish differential prices for export to be recognized, provided that the rulings be published and equally applied, whatever the country of destination.

2. Germany may not apply duties or taxes on exports unless these duties or taxes, which will embrace all the products of a similar nature without regard to their destination, have been previously announced and published in the journal of the laws of the Empire.

3. Germany to be able to issue a general prohibition of export for any article whenever she shall consider it expedient to do so, having in mind the obligations imposed upon her by the treaty of peace. She, on the contrary, to forbid all exceptions to the export prohibitions. In case the prohibition of exports cannot be absolute, the system which without doubt would best prevent discrimination

would be that of fixed export allotments bearing the same guarantees as are provided for the allotments of imports.

4. Without detriment to the condescension [*conditions*] fixed in the preceding paragraphs, Germany would abstain from all interference in private contracts entered into between German subjects and subjects of foreign countries."

In submitting the report, Serruys¹² made a thorough and lucid presentation which created a very favorable impression. Going into considerable detail, he stated that committee had examined some 150 cases of alleged violations of article 264 and following articles. He admitted that matters of this nature were scarcely susceptible of complete and definite proof. For instance, it might be established that an import license had been denied a Belgian and that the motives therefor were none too valid but if the import license for same article had been granted to a Swiss, extent of discriminati[on] could only properly be shown if papers of said Swiss in this respect were obtainable which they are not. As to differential export prices, while recognizing that Germany has a perfect right to fix one price for domestic consumption and another export price for same article, Serruys gave following typical example of proven discrimination export. Price of German machinery is 200 per cent of manufacturing price if bought by citizen of a friendly state, 500 per cent of manufacturing price if bought by citizen of neutral state and 800 per cent of manufacturing price if bought by citizen of ex-enemy state. German Government can make internal and external prices differ as much as it pleases but latter must be uniform. Another typical case of proven discrimination is that Germany will not export [to] Alsace Lorraine, which needs the German article, a commodity which it will export to Switzerland. Alsace Lorraine then, to meet its demands, must buy from Switzerland at an increased price. Serruys also said that Committee had verified various instances of German Government's substituting itself as party to a contract originally between individuals, thereby, of course, varying the terms of the contract in the sense of increasing the obligation to the foreign party.

Referring to plan submitted by the Committee to the Conference, in particular the recommendation as to allotments of imports and exports, Serruys made following comment: Germany, as pointed out, has absolute right to issue general or limited prohibitions, for instance she is free to say that only a certain amount of wine shall be imported; but this wine should be importable from any country able to supply the demands of German merchants and Germany should not be free to say that said importable amount of wine can only consist of French wines to exclusion of Italian, Greek or other

¹² French representative on the committee.

wines. Furthermore the committee felt that in decree [*decreeing*] such allotments Germany can subject them to certain conditions such as conditions of credit, price, etc. This latter opinion, said Serruys, went further than certain interests would have desired but Committee had realized that it was trying to establish a peace time commercial regime and had therefore tried to approach its task in a spirit of entire broad mindedness and to reach its conclusions accordingly. Amplifying my 1147, Bonin¹⁰ thought proposed notification from Conference to German Government might well omit this last point. He thought that though it was open to German Government to impose such conditions and that Conference would not protest if it did so, it was not necessary to specifically call German Government's attention to this privilege. Derby,¹¹ however, who had already said that he hoped to receive favorable instructions from his Government, thereupon answered that unless Conference's notification to German Government contained this specific permission, he felt sure his Government would not be prepared to accept report and concur in proposed procedure (see my 1147). Bonin then said that in that case he, likewise, would have to refer the whole matter to his Government for instructions.

Since the question will again come before the Conference as soon as Bonin and Derby have received their instructions, French, Japanese and Belgian delegates being ready to accept report and proposed procedure, I should greatly appreciate instructions at earliest possible moment.

WALLACE

763.72119/9857 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 26, 1920—7 p.m.

1015. Your 1147, May 14, 3 p.m.¹² and 1158 [1148], May 14, 9 p.m.

First. Department's 539, March 16, 6 p.m. stated that in the absence of definite information Department was not in a position to determine what action was warranted. Since American representatives did not participate in work of Technical Committee Department is not yet in possession of the facts in the case. Department regrets exceedingly that American representative was not given opportunity to participate in the investigation of facts, since full knowledge is necessary for decision in a matter so vitally affecting our interests. It would seem Allies might have offered oppor-

¹⁰ Italian Ambassador to France.

¹¹ British Ambassador to France.

¹² Not printed.

tunity to go over evidence had presence of American representative at third meeting really been desired.

Second. Please inform your colleagues that such far-reaching questions affecting our commerce are involved that in the absence of more complete and specific information respecting the German practices complained of we find it necessary to defer decision regarding proposed solutions. At the same time discreetly indicate our feeling set forth in paragraph first.

Third. Please endeavor to obtain promptly access to data examined by Technical Committee, also other relevant data, and report by cable to Department with special reference to bearings upon acceptability of proposed solutions. Department suggests obtaining assistance of Consul General.

Fourth. Department pleased at extent to which principles set forth Department's 539 March 16, 6 p.m. and 663, April 1, 6 p.m. have been accepted, as evidenced by desire to allow Germany such liberty in commercial control as is compatible with Treaty. This Government desires to cooperate in preventing improper discriminations by Germany. For your information Department inclined to believe proposed method of import and export control would be an improvement, but questions whether it would prevent discriminations if German Government desires to make them. However, in the long run Germany appears to have little if anything to gain by such practices.

Fifth. It is important that your colleagues should realize that you should be fully informed of the facts in all such cases involving important American interests.

Sixth. For your information Department inclined to believe that substantial evidence of discrimination must be shown to justify imposing strict import and export regulations on Germany because of the possible psychological effect on the necessary re-construction of her commercial activities.

COLBY

763.72119/10002 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, June 10, 1920—10 p.m.

[Received June 11—8:17 p.m.]

1274. Mission. Your 1015, May 26, 7 p.m. Your paragraph 1. Regret wrong impression given by first paragraph my 1148 May 14, 9 p.m. There was no disposition on behalf of Allies to prevent our having opportunity to examine the evidence. Serruys claimed that invitation to first two meetings was sent but never reached Hodge.

Answering paragraph 3. Upon receipt of Department's 1061 June 3, 5 p.m.,¹³ requested Huntington¹⁴ to examine data. Serruys promptly placed *dossier* containing some 150 cases at his disposal. *Dossier* consisted of great mass of papers in French and German. Method of procedure was to select a number of typical cases at random. From these it was clear, first, that there is close government control of foreign commerce, second, that there is a practice of secrecy in carrying out this control, third, sudden chaotic changes in customs regulations without warning to business interests, fourth, price discrepancy in favor of some countries as against others with demand for payment in foreign currency in some cases and, fifth, arbitrary intervention in *bona fide* private contracts at the last moment.

Huntington also attended meetings of the Commission to prepare draft note to German Government (see point 2 my 1217 May 29, 6 p.m.¹⁵). He was thereby enabled in addition to examining evidence to discuss matter and learn views of Commission including those of British representative. Huntington approves the report submitted by the technical committee (see my 1148 May 14, 9 p.m.) and concurs in following draft note which will be submitted to the Ambassadors' Conference at next meeting:

"Draft of notification to Germany as to her commercial regime.

Certain Allied and Associated Powers have been struck by numerous and constant complaints of their nationals against the commercial regime instituted by the German Government, a regime which permits and in certain cases implies the violation of articles 264-279[269] of the Treaty of Versailles.

By the provisions of these articles, the Allied and Associated Powers have in nowise sought to prevent Germany from taking the measures appropriate for her economic revival which they, on the contrary, desire to assist. For example, they have not forbidden her to establish import prohibitions in order to reduce her expenditures and protect her exchange abroad, nor to limit her exports in order either to enjoy [utmost] benefit of her production or to enable her to meet the obligations for payment in kind provided by the Treaty of Versailles.

But the organizations and the measures which Germany has the right to institute are limited by her obligation not to practice any discrimination direct or indirect to the detriment of the commerce of any one of the Allied and Associated Powers, either by means of import duties and taxes or export duties and premiums, by the application of prohibitions or restrictions, by the creation of monopolies, by any interference of the German State which might have for its purpose or for its result to differentiate as regards the conditions of commercial transactions. The regime established by Germany would not appear to favor uniform conditions in foreign commerce. The reestablishment by a succession of ordinances ending

¹³ Not printed.

¹⁴ William C. Huntington, commercial attaché, American Embassy at Paris.

with that of March 22nd 1920, of the absolute control over imports, instituted by the German State for war purposes in 1917, the establishment of certain monopolies which furnish the state the means not only of concentrating purchases abroad but also of taking summary measures of confiscation and taxation of foreign products already imported into its territory, the granting of individual licenses for export or for import subject to variable conditions which, to say the least, negotiations [*sic*] are impossible to verify as to rate of exchange, credits and so forth, the direct or indirect intervention of the "Reichscommissar" of the "Preisprüfungstelle" and of the local "[Aussen]handelsstellen" which have the effect [of] modifying or annulling contracts freely entered into,—all these are appropriate instruments thanks to which Germany is in a position to practice a policy of discrimination in opposition to the spirit and to the terms of the obligations which she has assumed.

Desiring to leave to Germany all the initiative necessary for her restoration, the Allied and Associated Powers renounce any claim to raise the objections of principle to her commercial regime which would undoubtedly be justified.

However, it is their duty to point out to her the violations of the Treaty of Versailles which have been ascertained and to which this regime has led.

From the documents which the Allied and Associated Powers have exchanged and have subjected to a common examination it appears:

(A) Regarding imports. 1. That in certain cases the granting or the refusal of import licenses could have had for its purpose and has had for its effect to prejudice the products of certain Allied and Associated countries in favor of the products of other countries. 2. That in particular the monopoly [of] wines and the spirits monopoly have been exercised to the detriment of the products of certain Allied and Associated Powers and have permitted certain measures of confiscation or of taxation whose retroactive feature still further aggravates the arbitrary character of these monopolies. 3. That Germany is rendering inoperative by measures of prohibition the provisions of article 269 which tend to maintain the German market accessible during a period of three years to certain products which the Allied and Associated countries exported to it before the war. 4. That the products originating in and coming from Alsace Lorraine have been subjected, contrary to the stipulations of articles 68 and 268 of the treaty of peace, to import duties. 5. That products of Alsace Lorraine, which within the limits of the contingents fixed for Germany should be admitted freely on the presentation of certificates attesting their origin, have been prohibited [from] importation and subjected to the granting of a preliminary license. 6. That the application to the products of the Saar obtrudes upon [*Saar region of?*] the rulings of the ordinance of March 22, 1920 is carried on contrary to the stipulations of paragraph 31 in the annex to article 50.

(B) Regarding exports. 1. That by the intervention of the German authorities or of syndicates established and controlled by the Government, differential export prices have been fixed varying according to reasons of political or economic preference, which are forbidden by articles 265 and 266. 2. That export duties have been collected, the existence of which had not been published and [which]

indeed it was forbidden to mention on the contracts or on the bills. 3. That the benefits of exporting certain [products or] raw materials [are reserved] either by contingents or preferential derogations to certain countries to the detriment of others whose industry and supplies are thus menaced. 4. That numerous contracts made by the nationals of the Allied and Associated Powers have been modified or broken on the direct or indirect initiative of the German authorities who have intervened to increase the prices, to demand super-taxes or premiums, to exact the payment in the country of destination or of any other country, or to suspend export according to the fluctuations of the exchange, and [that] deals have been broken up in this way for the benefit of buyers of other countries.

For this reason the Allied and Associated Powers invite the German Government to apply to the commercial regime which it has established such modifications as will achieve the following results: 1. In case the prohibitions of import or of export issued by Germany cannot be applied without making exceptions, the contingents admitted for import or export should not be made the object of arbitrary distribution nor of individual licenses arbitrarily granted. 2. No measure of confiscation or of seizure should be applied as a result of imperial monopolies or of any other administrative organization to goods imported into Germany under a regular license prior to the publication of the prohibition or before the expiration of the time interval provided. 3. No tax on export may be collected if it has not been regularly authorized and published in the Journal of the Laws of the Empire. If the German Government makes [use of] export premiums, these premiums stated in marks or converted into foreign currency must be the same whatever the Allied or Associated country to which they are destined. 4. Without prejudice to the conditions considered in the preceding paragraph, the German authorities will withhold themselves from all interference in probable contracts between German nationals and Allied and Associated nationals. The latter may demand the execution of contracts, modified, suspended or broken as a result of a former interference [of the German authorities] such as is described in paragraph 4 above of the section 'Regarding export[s]'. It is for the German Government to discern and to take the measures which it considers expedient in order that its economic regime may conform to the considerations set forth above. It would moreover be well that the German Government make known its intentions in this regard before the forthcoming conference at Spa."

The foregoing is on agenda for next meeting. Please instruct at earliest moment possible.

WALLACE

763.72119/10002 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, June 16, 1920—5 p.m.

1122. Your 1274, June 10, 10 P.M. Mission.

Department concurs in general with spirit of note and with specific demands, but suggests modification at two points. 1. Statement

that "Powers renounce any claim to raise objections of principle" unnecessarily sweeping especially as United States is not party to treaty. Suggest change after Powers "do not desire at present to raise objections". 2. Last paragraph, section 4, suggest insertion after interference "other than that authorized by general laws in accordance with letter and spirit of this note".

COLBY

763.72119/10105 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, July 6, 1920—6 p.m.

[Received 10:20 p.m.]

1361. Mission. See my 1274, June 12 [10], 10 p.m., relative to notification to Germany concerning her commercial regime; this notification as slightly modified (see my 1288, June 15, 2 p.m.,¹⁴ point 8, and my 1308 June 21, 8 p.m.,¹⁴ point 3) was sent to Göppert¹⁵ on June 22. At its 67th meeting held this morning Conference of Ambassadors had before it German reply to said notification. Derby, in the absence of his commercial expert, urged that consideration of the note be postponed, on the other hand Cambon¹⁶ and Bonin considering German answer to be clearly of an unfavorable nature thought that matter should necessarily be taken up at Spa, as constituting another German violation of treaty, and in support of this argument they invoked provisions of previous decisions of the Conference (see my 1122, May 10, 8 p.m.,¹⁴ point 1). Wallace pointed out that the force of said decision was purely argumentative, that there had been no decision to refer this question to Spa, that Conference of Ambassadors was perfectly competent to deal with this question, and strongly urged that question be settled by this Conference rather than at Spa, where America has no representative. Matsui¹⁷ felt that however prior decisions of Conference were worded, it was intention of Conference to refer question to Spa, if German answer were unsatisfactory. He recognized nevertheless that in view of attitude of Derby and Wallace, Conference could not take a decision either that German reply is unscrupulous [*unsatisfactory?*] or that question shall be referred to Spa. It was therefore decided to put the question over until a meeting of Conference to be held next week. It was understood however that in the meantime Cambon who is leaving for Spa tomorrow afternoon

¹⁴ Not printed.

¹⁵ Head of the German peace delegation.

¹⁶ French representative at the Conference of Ambassadors.

¹⁷ Japanese Ambassador to France.

would inform Millerand¹³ and Sforza¹⁴ of today's discussion at Conference of Ambassadors and on behalf of himself and Bonin as individual Ambassadors would suggest that question be taken up by Spa Conference. Wallace earnestly requested that if matter was so taken up he be immediately informed of any solution reached so that he might immediately communicate same to his Government for its approval.

English translation of German reply is as follows:

"The German Government has the honor to acknowledge the receipt of the note from the Peace Conference under date of June 22nd last. In order to reply to this note, which has reference to the general principles of the economic policy of Germany in the domain of imports and exports, it will be necessary primarily to proceed to a thorough and difficult examination of the entire question, an examination which will take a certain amount of time. Consequently, the German Government reserves the right of setting forth in a more detailed manner its policy relative to imports and exports, as well as the motive inspiring the German Government in practice.

However, the German Government has the honor at this time to point out that it considers the regime of imports and exports now in force in Germany, which is, furthermore, rather complicated in part and not always easy to understand, as only a temporary measure necessitated by the economic distress of Germany, and which the German Government itself is particularly interested in simplifying as soon as the general situation will so permit. The German Government formally declares that the measures taken already, or to be taken in the future, are for the sole purpose of maintaining the solvency of Germany, and to ensure to the country in so far as possible the benefits of its production, and to place it in a position to carry out the reparation stipulated in the Treaty of Versailles, but are not intended to be any disadvantage whatsoever to any one of the Allied and Associated Powers with respect to another, or to Articles 264-269 of the treaty. In particular, after the ordinances of the Inter-Allied Rhineland High Commission will have, henceforth, effectively reintegrated the occupied territory of the left bank of the Rhine into the economic organization of Germany, the German Government will do its best to smooth out as rapidly as possible all difficulties which were encountered by circulation [between] said territory, and non-occupied Germany, and which the German Government regrets as much as the Allied and Associated Powers. In order to set aside, in so far as possible, all the obstacles interfering with that circulation and considered as annoying by foreign importers, and with the intention of generously meeting their wishes in the matter, the German Government has resolved to suppress at once, for the majority of the merchandise in question, the organization of control which has existed under existing arrangement at the frontier between occupied and non-occupied Germany, and to consider the suppression of such control for the rest of the merchandise in the very near future. Such

¹³ French Premier and Minister for Foreign Affairs.

¹⁴ Italian Minister of Foreign Affairs.

an offer seems to be of a nature to give proof of the spirit of equity and conciliation guiding the German Government in the ensemble of the question under discussion. Accept, et cetera, signed Göppert."

WALLACE

768.72119/10105 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, July 15, 1920—4 p.m.

1248. Your 1361, July 6, 6 p.m.

Department concurs strongly in your view that further representations to Germany relative to her commercial regime should be submitted to this Government before transmission. You are authorized to take an early opportunity so to inform the Council of Ambassadors, basing your remarks on the argument that the mutual economic interests of all the recent co-belligerents necessitates common counsel on such question.

The Department has assumed that the Allies, in the belief that such a practice was in their interest as well as in the interest of the United States, took the view that all such decisions should have the approval of this Government. The Department would regret extremely any important departure from the practice heretofore followed.

COLBY

OCCUPATION OF THE RHINELAND BY THE ALLIED AND ASSOCIATED POWERS

Report of the American Observer on the Rhineland High Commission—Dispatch of Additional Troops by Germany into the Ruhr Basin—French Occupation of Darmstadt and Frankfurt; Attitude of the American, British, Italian, and Belgian Governments—Appointment of General Allen as American Observer—Use by France of African Troops in the Rhineland—Discussions Regarding Payment of Expenses of Armies of Occupation—Attitude of the Associated Governments toward Provocative Speeches by Members of the German Cabinet in Occupied Territory—Proposed Reduction of the American Army of Occupation

862t.01/1

The Observer on the Rhineland High Commission (Noyes) to the Acting Secretary of State

COBLENZ, February 27, 1920.

[Received March 16.]

MY DEAR SECRETARY: Reporting further on the lines of my recent letter:¹⁵ the Rhineland Commission and its policy are suffering from pressure—hidden pressure and open pressure—directly from the

¹⁵ Not printed.

French Government. M. Tirard¹⁶ would, I think, personally be inclined to give fair trial to the plan laid down in the Rhineland agreement last June. He, however, spends more than half of his time in Paris where the pressure for a "strong policy" in the Rhineland is evidently kept before him with great emphasis.

The French High Command is continually demanding from the Commission power for extensive and unnecessary controls of German affairs—controls of transportation, controls of economic laws, and interference with the life of the people. It is not, however, these demands which are worrying me as much as the controls which are exercised in the French and Belgian areas and which we have very little means of checking up.

This week, Sir Harold Stuart¹⁷ and I brought to an issue the illegal acts of the Armies in the case of the suspension of a German law. The Commission had declared this law unobjectionable and not at all within the scope of our power. The French High Command, on their own responsibility, suspended the law and we only learned of the suspension several weeks later. M. Tirard frankly apologized for this violation and said that General Degoutte¹⁸ claimed that it was a mistake and was willing to apologize, but, in the course of discussion, M. Tirard came out with a great deal of feeling on the subject of the complaints made by the Government in France as to the weak policy of the Commission. M. Tirard said the Army was becoming so dissatisfied that if things went much further the authorities in France would remove General Degoutte, as being too easy-going, and would send a man here who, he intimated, would ride things in a much rougher way. He added that he himself would probably be removed and a much stronger man sent in his place. I was shocked at the statement, as he made it. Sir Harold and I both asked him if he really meant that France was bound to put through her plans of "strong" military domination and if what he said was intended as a threat. He disclaimed this latter idea, but maintained strongly that it would be necessary to handle matters more to the satisfaction of the Army if the Commission was to survive.

I mention this incident, because it fits in with the events of the past few weeks and with the revelations of M. Tardieu, published during this month in *l'Illustration*. I enclose a copy as reprinted in the *Amaroc News*, which possibly you have already seen.¹⁹ I think you will be interested in the exposé, especially the rather inappropriate boasting that the occupation was included in the

¹⁶ French Rhineland High Commissioner and President of the Commission.

¹⁷ British Rhineland High Commissioner.

¹⁸ Commander in chief of the French army of occupation.

¹⁹ Not printed.

Treaty in spite of Mr. Lloyd George and President Wilson. This fits in with recent evidence that the French are planning to nullify the one concession made by Clemenceau, namely civilian control of the occupation.

You will note in Tardieu's article it is stated that British and American Premiers, struggling against an occupation of Germany, offered him the triple alliance. M. Clemenceau wanted them both, and Tardieu boasts that he persisted until he got them both. The final struggle over this, according to the dates given by M. Tardieu, came just at the time of my letter to President Wilson and Clemenceau's acceptance of a civilian occupation seems, in the light of later events here, to have been intended as a concession made to ensure the occupation. It seems possible that the French policy has always involved nullification of this concession when opportunity should offer.

The ultimatum sent by the French Government to Germany on the matter of coal deliveries, copies of which ultimatum were circulated by the French High Commissioner to his colleagues and myself, was, as everyone realizes, illegitimate, on the basis of the relations established by the Treaty, since these matters were left entirely in the hands of the Reparations Commission. This ultimatum, read with Premier Millerand's speech, added to local developments here, lead me to the conclusion that France has decided to handle the occupation as largely a French affair.

It will add to your view of the direction French policy is taking if I tell you that M. Tirard has concluded many of his discussions and arguments with me recently by asking: "Do you not think that we must occupy the Ruhr?"

I now have first hand evidence (very likely you have the information) that the French Premier has approached other Governments directly on the subject of moving forward and occupying the Ruhr about March 1st, with eight divisions of troops. The proposal was headed off in London by Lord Curzon's insistence that it be referred to the Reparations Commission. This information was given me in strict confidence by Sir Harold Stuart.

Sir Harold and I agree that the recent attempts in the Commission to take food control in the Rhineland away from the Germans, to take the coal distribution away from the Germans, and many other of the annoying incidents, are part of a general policy to throw off moderate control and to move much more energetically in the matter of separating the Occupied territory from the rest of Germany. The talks I have had with Monsieur Tirard convince me that the French feel if the Ruhr were added to the Occupied Rhineland territory it would create a wonderfully strong economic unit which would

really offer a temptation to the population to back up a separatist movement. Not only this, but the Ruhr contains the great bulk of the industrial coal production of Germany, as well as the iron and steel production. If it were for 15 years part of a territory occupied very largely by French troops it would be a tremendous economic asset for France, and I am sure it is in their minds that, at the end of 15 years of such occupation, a way would be found to make the separation permanent.

I might add that the newest movement of the German separatists has been started at Boppard, which is about 12 miles up the Rhine from here, and which is the nearest town in the French zone of occupation to Coblenz, capital city of the Rhineland. Boppard is the headquarters of the French Army and of the French Commissioner, for their portion of the Bezirk of Coblenz.

According to the views expressed by M. Tirard, this urge for a "strong policy" in Occupied territory is founded on the reasoning that the Treaty looked forward to a general participation of America and England, and that, with America's threatened withdrawal and England's partial withdrawal, France must take her own measures. This is a mistaken policy, as it seems to me and as I told M. Tirard, for it is only through the alliance with England and America that safety for France is possible, and a military policy which attempts to strangle Germany cannot afford to gain strategic advantages at the expense of the sympathy of her Allies. Certainly, if France is able to drag the Allies into an enterprise of further invasion of the Ruhr coalfields, she will need some very tangible help in soldiers to support it.

My personal relations with M. Tirard and M. Rolin-Jaequemyns, the Belgian High Commissioner, are excellent. I may say also that the anomalous position in which I am placed by the delay of ratification has not, so far, weakened my standing. The desire of the French to keep the United States here has led M. Tirard to give my position the same consideration as if I were High Commissioner. I see no reason why this will not continue, unless the Millerand-Tardieu-Poincaré administration forces M. Tirard to change his policy. The personal predilections of Sir Harold Stuart, as well as instructions from the Foreign Office, have so far been always parallel with my own conception of your wishes.

On paper, Sir Harold and I have made some real progress this week in forcing the High Command to relinquish the economic control in favor of the Commission's functions. I am always worried, however, that the many small incidents which come to light in regard to the local management of representatives in the French and Belgian areas is an index of the exercise of a local control entirely in violation

of the Rhineland Convention. Three quarters of the territory is French and it is very hard to know what is taking place. Sir Harold is of the opinion that, in many ways, the Commission's representatives in these areas, who are the same officers employed locally by the Army during the armistice, have changed their practices very little from the personal domination of local affairs practiced during the armistice.

GERMAN MILITARY FORCES

I ought to report to you all the information I have regarding German Military Forces.

The French have sent me two and three reports a week purporting to give information showing that Germany is organizing an army of over 4 million men and implying that this is designed for use against the Allies. Much of the material in these documents is propaganda and could have been written in Paris as well as in Germany. The details of German plans were given so definitely that I finally sent a secret service man through all the large cities of Germany, to ascertain the truth.

I will give the facts as he got them.

The "Reichswehr" is the regular army and will be controlled by the Reparations Commission as to numbers.

The "Einwohnerwehr," which is the home defence force, has been fairly well organized throughout Germany. They are not in uniform, their only distinguishing insignia being a blue armband bearing the inscription "Einwohnerwehr Stadt . . ." These men are all recruited from soldiers who have seen service and are officered by officers of the old regime.

The "Sicherheitspolizei," or safety police, have been organized nominally to preserve order. The French feel that they are being made the cover for a very effective army. It is a fact that this force is the most reliable in Germany; it is recruited from officers and non-commissioned officers who served in the war.

These two unofficial forces, the "Einwohnerwehr" and the "Sicherheitspolizei" will probably number 2 million men at the present time.

Under present circumstances, there is certainly excuse for the very effective organization of a "safety police." We have discovered in the Rhineland that Germany never depended, as we do in the United States, on local police for anything but the simplest work; the army has always been at hand to do the serious police work. This is so much so that we must either allow an effective organization of the "Sicherheitspolizei" in the Occupied territory, or we shall have to do much of the policing and repression of disorder. The local police

are helpless to handle even a small strike. There are only 800 policemen in Cologne, a city of over 600,000 population. I mention this as it offers a logical reason for a fairly large organization of "safety police," especially considering the unsettled condition of the country.

I quote from a communication recently sent me by General Allen, in connection with the discussion we were having on this subject:

"German psychology is as yet unable to grasp firmly the principle that the maintenance of public order in a democracy is in the first instance a function of local self-government. We should, therefore, I think, be prepared to accept, for a time at least, the German theory of centralized control of the police power, but limited in the Occupied area to the minimum requirements and maintained strictly under Allied supervision. In no other way, I feel sure, can your Commission eliminate the constant temptation to call for Allied troops for police protection, and it does not seem to me that under the Rhineland Convention troops should be used for this purpose except as a last resort."

I shall keep you informed of everything I learn bearing on the arming of Germany. Personally, I do not believe that there is any deliberate attempt to arm for attacking the Allies, or that there will be, unless France forces Germany to it through strangling her economically by taking over the Ruhr, or otherwise. The contest between parties throughout Germany is so intense that much military organizing may take place, either secretly or openly.

In some of the French memoranda, which seem to me quite largely propaganda, situations are frequently described showing parties organizing secretly, in a military way, against each other. I quote from one of these papers, which attempted to convey to me the usual panic regarding the organization of the militia:

"The 'Heimatsdienst' (Home Service) is to the Government what the D.O.B. (German Officers' League) is to the Monarchists. These two bodies are completely antagonistic, they work one against the other each trying to have their agents penetrate the others domain."

Also:

"*Recruiting*: All men between the ages of 17 and 40 years are eligible for enlistment. The laboring classes in Magdebourg are opposed to this organization, which they believe to be directed against them; they are not enlisting, most of the members being bank and commercial employees, merchants and professional men."

Personally, I am not alarmed by Germany's military preparations and believe that the Commissions of Control will place German military preparations against armed nations out of the question for many years.

ECONOMICS

The seemingly impossible reparation demands and their very disastrous indefiniteness have ruined the mark and the German credit in such a way as to place a blockade around Germany more effective, I believe, in keeping out raw material and food than the Allies ever maintained during the war.

The impossible coal demands of the French at the present time, together with the very bad situation of coal production, due partly to deterioration during the war and partly to the unwillingness of the coal miners to work, has reduced coal for industrial purposes to such a point as temporarily to make the lack of raw materials somewhat unimportant. The allowance of coal to industry, on the program submitted to the Rhineland Commission, was 30% of their requirements. Investigation has convinced me that we get a larger share here than in Unoccupied Germany, yet in no month have we received 30%, and a very large proportion of the industrial population is out of work, or working on short time.

This industrial situation has permitted employers to move wages up slowly and grudgingly, as the cost of food and material mounted, so that in many localities the trouble is not so much the lack of food as a total inability of the working classes to pay for nourishing food. For the rest of the winter the average ration will not go much above 1000 calories. Last summer the Germans kept it up to 1400 or 1500 calories, and the "La Morlaye" ration decided upon by the Allies, and kept up by supplementary Army food, was 2100 calories.

In general, the economic situation in Germany is as bad as it can be and is, I believe, growing worse. The Occupied territory has not been relieved in such a way as to permit complete economic unity with the rest of the country. This territory is by far the most important single economic unit, normally furnishing a share of the exports out of all proportion to its 7 million population.

I shall be glad to furnish you facts and statistics along any particular line which interests you. I believe I have a staff capable of obtaining any such figures which we may now lack.

In my view the two outstanding facts are:

I. A steadily deteriorating economic and industrial condition throughout the country—a deterioration which is, to say the least, looked on complacently by the French;

II. A firm determination on the part of the responsible masters of France to effect, in some way, a separation of the Rhineland from Germany and, in doing this, to make it as economically disastrous to that country as possible and to obtain for France a corresponding economic advantage.

The Dorten fiasco in Mayence last summer turned practically all sentiment in the Rhineland against separation, even from Prussia. There was, prior to that time, I believe, a very substantial sentiment for separation from Prussia, but the French intrigue put the fear into the hearts of all Rhinelanders that such a separation would be only the first step to a complete separation and an exploitation by France; considering the threat of 15 years occupation largely by the French troops, this fear seems not unjustified.

You may be interested in a quotation from a speech recently made by the Social-Democratic member of the National Assembly from the Cologne district:

"French Annexationists, who have always coveted the Left Bank of the Rhine, but who found themselves unable to acquire it as the result of secret negotiations with the Entente, have so framed the Peace Treaty as to lead gradually and inevitably to a permanent control of Rhineland by France. The Treaty contains conditions and demands, which the makers themselves know to be beyond fulfilment. Just as Austria did with Serbia in 1914, so now the conquerors have imposed upon the conquered terms which he cannot fulfil, so that they can proceed to deal with him as they wish."

I shall continue to oppose these tendencies as far as I can and believe that I shall always have the support of the British High Commissioner. As I have suggested in my previous report, I think it would be profitable if I were called to Washington to give you all the facts of the situation.

Very truly yours,

PIERREFONT B. NOYES

S62t.01/6: Telegram

*The Observer on the Rhineland High Commission (Noyes) to the Acting Secretary of State*²⁰

COBLENZ, March 6, 1920—10 p.m.

[Received March 8—9:38 a.m.]

Having become convinced that any occupation of Germany beyond perhaps the period necessary to put into effect disarmament provisions will prove a blunder and fraught with serious perils for all the world, I think best to place my resignation in your hands so that you may, if you think best, replace me by a man who still has faith in this method of obtaining reparations. Our struggles to prevent encroachments of the Allied military are now of almost daily occurrence, these discussions will soon reveal my conviction to the French. Recently while making belated apology in behalf of Degoutte for

²⁰ Via the Embassy in France.

illegal suspension of German economic regulation which commission had approved, Tirard stated that if affairs were not handled more to the satisfaction of the army Degoutte would be recalled as too easy going, "a more energetic man" would be sent and that he himself would be replaced by a more powerful man. I believe it is impossible that a military occupation of Germany conducted largely with French forces can be made such a tolerable burden as the President had hoped. Not this alone however has turned me against the occupation and has caused me to wish America out of it as soon as possible. Two sinister purposes are developing with Allied occupation as basis: first, determination to effect separation of the Rhine territory from Germany; second, plan to use local disturbances or German dereliction in fulfillment of impossible reparations demands, whichever matures first, [as] an excuse for invading and occupying the Ruhr; this last proposition was made in London. As you may know Foch plan called for eight divisions about March 1. Sir Harold works with me always and agrees with above conclusions. I have no wish to shirk, am willing to continue fight which as to detail regulations has been fairly successful, but am cabling that you may decide whether my present feeling disqualifies me for the work.

NOYES

862.00/845 : Telegram

The Commissioner at Berlin (Dresel) to the Acting Secretary of State

BERLIN, March 19, 1920—3 p.m.

[Received March 20—12:30 p.m.]

201. German Government has urgently taken up through its Paris representative the question of allowing additional German troops to be despatched to the Ruhr district to maintain order. The British military and diplomatic representatives here have strongly supported this application. The French attitude here is evasive and Pacuraet, head of French Military Mission, has recommended that request be only granted in case German troops are withdrawn from Frankfort.

In my opinion the request is reasonable and should it be considered desirable that the United States commit itself on the question I believe that the British view should be supported.

DRESEL

862.00/845 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 22, 1920—4 p.m.

575. You are instructed in case German request to send additional German troops to Ruhr district to preserve order should come

before Council of Ambassadors, to join with your British colleague if he supports the request. Department has been informed by Am[erican] Commissioner in Berlin that the request is strongly supported by British military and diplomatic representatives there but that so far the French agree only if German troops are withdrawn from Frankfort. In the opinion of Department the French counter demand has no bearing on the matter and should not be supported.

POLK

862t.01/10 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 22, 1920—8 p.m.

[Received March 22—6:37 p.m.]

790. Mission. The Rhineland High Commissioners decided on March 21 to send the following telegram to their respective Governments repeating it to Embassies at Paris.

“1500 soldiers of the Reichswehr with officers and a general took refuge in the British zone near Cologne on March 19. These troops have been disarmed and interned by British military authorities. Reichskommissar von Starck has officially requested the High Commission that these troops may be transported to unoccupied territory with their arms and equipment. He has specially asked that they may be transported to a position named by him in order that they may take part in pending operation by the French Government [*German Government*] in the neutral zone. [Omission indicated.] The High Commission has decided pending instructions from their Governments to keep interned for the present all troops taking refuge in the occupied territories. The High Commission is of opinion that an attitude of impartial neutrality observed by the Allied authorities since the beginning of the recent events has favored the complete maintenance of order in the occupied territory and has been received with satisfaction by the population of those territories. The High Commission is in any case of opinion that the troops should only be returned to the right bank without arms and that no movement of German troops in the occupied [territory] should in any case be allowed.”

WALLACE

862t.01/10 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, March 24, 1920—3 p.m.

595. Your 790, March 22, 8 p.m.

Department in general approves statement of Rhineland High Commissioners but feels that in emergency these interned troops

might properly be used on request of German Government for suppression of disorders in Ruhr district or elsewhere in accord with Department's 575, March 22, 4 p.m.

COLBY

862t.01/15 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, March 24, 1920—8 p.m.

[Received 8:53 p.m.]

804. Mission. Your 575, March 22, 4 p.m. In concert with point embodied in my 777, March 21, 9 a.m.,²¹ decision taken at Ambassadors Conference on March 16th to refuse German request to send additional troops into Ruhr Basin, was held up by Derby.²² Consideration of the German request was resumed at meeting of March 20th (see my number 788 March 21[22], 6 p.m.²¹) and as reported Derby stated that matter was one to be decided by the Governments and that he had communicated to Millerand the report from his Government, he refused them [*then*] and again at the meeting last night to be led into a discussion of the question, consequently the fact that the British Government supported the German request has not been stated at the Conference and is only known to me by virtue of the confidential information given me by Derby as reported in my 789 March 22, 7 p.m.²¹ It does not now appear that I shall have an opportunity to carry out the instructions contained in your telegram under reference before the Conference of Ambassadors.

On the other hand if the Department should deem it desirable could say to Millerand that you had been kept informed of the discussions which had taken place in the Conference of Ambassadors and that you felt that it would be an act of wisdom to permit the German Government to increase temporarily their forces in the neutral zone in order to restore order and that further occupation of German territory by the Allies having no bearing on the matter, should not be considered in this connection.

WALLACE

862t.01/15 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, March 26, 1920—2 p.m.

613. Your 804. Mar. 24. 8 p.m.

You will state to Millerand that this government has been kept informed as to discussions which have taken place in the Council

²¹ Not printed.

²² Lord Derby, British Ambassador to France.

of Ambassadors on the subject of giving permission to the German government to send additional German troops into the neutral zone and that in the opinion of this government such permission should be granted if additional troops appear to be necessary to restore orderly conditions. This government also considers that further occupation of German territory has no bearing on the matter and should not be contemplated since the additional German forces in the neutral zone are to be permitted only until order is restored.

In connection with telegram from Noyes of March 21, 10 p.m.²² you may further state to Millerand that this government sees no reason why Reichswehr troops with officers who took refuge in neutral zone and are now interned by British should not be returned to unoccupied territory with their arms or transferred to other parts of the neutral zone where they are needed to restore order if the German government so requests.

Repeat substance of above to Noyes.

COLBY

862t.01/17: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, March 29, 1920—8 p.m.

[Received March 30—3:47 a.m.]

848. Mission. Instructions contained in your 414 [613], March 26, 2 p.m., communicated to Millerand this morning. He made two comments.

1st: As regards your view that further occupying German territory had no bearing on the matter, he wished to inquire whether you did not believe that Germany should give some guarantee that the troops would be eventually withdrawn from the neutral zone and also as to your views with regard to the guarantee which should be required by the Allies.

2d: Millerand stated that he had asked Foch for an opinion as to what should be done with the Reichswehr troops who had taken refuge in the British zone and that he had agreed with the Marshal's opinion that, as usual in such cases, these troops should be disarmed.

I replied that while you had agreed in principle with the views of the Rhineland High Commission, nevertheless you thought that permission should be granted in this case for the troops to return to unoccupied territory with their arms.

As regards Millerand's first comment I undertook to refer the matter to Washington and to secure an answer for him as soon as possible.

²² Not printed; it contained the telegram of the Rhineland High Commissioners transmitted by Ambassador Wallace in his telegram no. 790 of Mar. 22, p. 298.

The Conference of Ambassadors met this morning and I made for the record the same statement in this connection as I made to Millerand.

WALLACE

862t.01/18: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, March 29, 1920—9 p.m.

[Received March 30—9:23 a.m.]

253. Haniel, Under Secretary of State, sent for me today to inform me of situation in Ruhr district which he considers as more serious. The Central Workmen's Committee in the district declared last night a general strike applicable to the whole of Germany though it is evident that this order will be obeyed only locally. The Communists, so the Government is informed by delegations from the Rhineland, have opened the prisons which has filled the ranks of revolutionaries with criminals. Haniel states that the Government troops are not strong enough without reinforcements to crush the revolt but can only just hold their own.

The German Government considers the French proposal to allow reinforcements only if Allied troops are permitted to occupy Frankfurt, Hanau, Darmstadt and Homburg as unacceptable and has so informed Paris. The Germans have just despatched a counter proposal to the effect that should the occupation of the Ruhr district by German troops be continued beyond four weeks, the French should at the end of that time, but not until then, have the right to occupy the Frankfurt district mentioned. I consider that German proposals are reasonable and as I understand they will have British support. Paris and London informed.

DRESEL

862t.01/20: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, March 31, 1920—1 p.m.

[Received April 1—9:10 a.m.]

258. Although situation in Ruhr district is still serious best opinion is that worst crisis is over. The consent of the French to allowing additional troops in the disturbed area for a period of three weeks has had a sobering effect as has had the despatch of a Government Commission to the seat of trouble. It is not expected that the extremists will surrender at once but a gradual weakening seems likely. Both sides are anxious to avert fighting and the Government troops

are being held on the borders of the district in hopes of a peaceable settlement.

A manifesto issued here last night by revolutionary leaders calling a meeting to arrange a general strike has apparently fallen flat. The independents are playing a waiting game; they are not hesitating to act temporarily with the Right on occasion hoping that they may more surely succeed thereby in discrediting the government.

I give little credence to renewed reports of nationalistic activities and believe that the danger from the Right is eliminated for the time being.

DRESEL

862t.01/17 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 2, 1920—1 p.m.

666. Your 848, March 29.

In telegram 613, March 26, Department stated that it approved despatch of German troops into neutral zone if such "additional troops appear to be necessary to restore orderly conditions." This pre-supposed their withdrawal when this purpose was accomplished. It remains opinion of Department that advance of Allied troops into unoccupied Germany could only have unfortunate consequences in further irritating Germans perhaps even to extent of bringing about common action between communist forces in Ruhr region and German government troops. In such eventuality the situation would indeed be critical. It now appears from Dresel's account of his conversation with Haniel, reported also to you, that German counter proposal that if German troops remain in Ruhr district more than four weeks French should have right to occupy Frankfurt region is sufficient guarantee of German withdrawal and this arrangement Department would approve. It is believed that disorder can be quelled in less than four weeks but if at expiration of that time Allied officers with German troops report presence of these troops still needed, Department would be glad to consider again its position as to further Allied advance in unoccupied Germany.

As to return with arms of Reichswehr troops now interned in British zone, Department perceives no reason for reversing its former opinion. If German government troops are to be permitted to restore order it would appear unfortunate to reduce the number of effectives to be used in the neutral zone because of a technicality, but if these troops are returned with arms German Government should be informed that this is permitted because of critical situation and cannot be considered as constituting a precedent.

Above to be used only if situation has not materially changed. Unofficial press reports today indicate possibility of such change.

COLBY

862t.01/22 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 2, 1920—11 p.m.

[Received April 3—10:50 a.m.]

885. Mission. President of the German peace delegation, Goepfert, called at the Embassy this morning and presented a memorandum with regard to the situation [in] the Ruhr a translation of which will be sent in separate telegram.²⁸ Goepfert stated that contrary to the most recent press reports that the situation had materially improved, conditions had become worse. The mining of coal had been seriously interrupted. It was impossible to transport coal as trains could not run. The soviet councils had lost all control the Red troops who were pillaging everything. If this state of affairs were allowed to continue for even a few days, the entire economic life of Germany would collapse, the railroad and gas companies were provided with coal for but a few days. At that time all railroad transportation would stop and consequently the supplying of food to the population not only in the region immediately affected, but throughout the whole of Germany. It was certain that the communists would take advantage of the general disorder to establish a regime of soviets.

This information had been received by telephone from Chancellor Müller this morning and Goepfert had been instructed to make every possible endeavor to obtain freedom of action for the German Government.

He added that yesterday afternoon the French general acting president of the military control commission in Berlin had informed the Chancellor that three battalions, six batteries and a battalion of engineers had entered the neutral zone near Borken. Although the exact number of these troops was unknown it was true that they had entered the neutral zone. The French general had been informed that following the announcement made by the Chancellor in the National Assembly the Government Commissioner Severing had given the troops permission to enter the neutral zone believing that the consent of the Entente had been obtained [as they] feared for the safety of the railway bridges in the area of Kappel [*Wesel?*]. No fighting had as yet taken place and the troops had been instructed not to advance if they should not be withdrawn. Later

²⁸ Not printed.

operations, in the event that the consent of the Entente should be obtained, would be delayed by several days. The Chancellor added that the situation was so critical that a decision was urgently needed.

In reply to a question as to whether the information in the press this morning to the effect that an arrangement had been reached with the communists in the Ruhr district was true, Dr. Goeppert stated that this was the case but that the communist authorities had no longer any control over the Red troops who had formed themselves into roving bands and were pillaging and destroying property. No coal was being mined and this would result in the complete break down of railroad transportation and consequently in the distribution of food throughout Germany. He seemed to be very much concerned. He stated that he had been in telegraphic communication with Von Haniel of the Foreign Office who he said seemed to be more worried over the situation than he had ever known him to be.

In reply to a reference to Millerand's note to Mayer of March 31st definitely refusing permission for the German troops to enter the Ruhr, Goeppert made the following statement: During the afternoon of March 29th the Germans had received a telephone message from the Foreign Office which was confirmed later by a note signed Paléologue reading as follows:

"If the German Government insists in its demand to send German troops into the Ruhr Valley, M. Millerand would be disposed to consent thereto on the condition that the said troops would be withdrawn from the neutral zone within a delay of two or three weeks. At the expiration of this delay that Allied troops shall have the right immediately to occupy Frankfort, Hanau, Homburg, Darmstadt and Dieburg on the conditions specified in the note of March 28th."

This message was repeated to Berlin and as the Germans felt that the French were the one Ally opposing the entry of German troops into the Ruhr Valley they had therefore [omission] permission to proceed and the Chancellor had made a statement to the National Assembly to that effect.

On March 30th Millerand had claimed that there had been a misunderstanding; that he had referred the question to his military advisers who were responsible for the safety of France and that they were of the opinion that there was no necessity to send them into the Ruhr.

Goeppert also stated that he had been to the British Embassy only to find that Lord Derby had left for London last evening and that he had laid the matter before a Secretary who would see Sir George Graham. He would also see the Italian Ambassador and M. Millerand. He laid particular stress on the urgency of the matter

and the vital importance which the Germans attached to obtaining immediate permission for their troops to enter the Ruhr. In reply to a question as to the numbers of the troops, he stated that these would amount to about 60,000. Although it was a hard decision to take, nevertheless his Government were prepared to permit the Allies to occupy Frankfort and the other towns mentioned above should the additional troops not be withdrawn within three weeks. He felt that in that time it would be possible to restore order.

WALLACE

862t.01/24 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 3, 1920—3 p.m.

[Received 10:08 p.m.]

895. Mission. Referring to my 885, April 2, 11 p.m. I called upon M. Millerand this morning and informed him of Goeppert's call, of the contents of the note, and of his explanation with regard to the misunderstanding to the effect that the German Government had believed that the French Government had withdrawn their objection to the German troops entering the Ruhr district on the condition that if they were not withdrawn within two or three weeks the Allies would have the right to occupy Frankfort, Darmstadt and other towns. I stated that I had taken the liberty of calling on him in order to ascertain the views of the French Government, as I understood the same note had been presented to him by the German Delegation.

Mr. Millerand replied that the information which he had regarding conditions in the Ruhr was not in accordance with what the Germans had. While the Germans claimed that the situation was very dangerous and even desperate his information which he considered to be reliable coming from Allied officers was to the effect that conditions were now in no way dangerous and that the entry of additional Reichswehr forces would only tend to stir up trouble in the local population, that the people of the Ruhr would resent the enticements [*interference?*] of the Reichswehr troops and that the presence of the latter might lead to the destruction of the coal mines. He had so informed the German Chargé d'Affaires and had insisted that the German troops which had entered the neutral zone be immediately withdrawn. He pointed out that these troops were part of the third marine brigade which had led the revolution of the 13th of March in Berlin.

As regards the alleged misunderstanding Mr. Millerand stated that the German Chargé d'Affaires had first asked that permission

be given by the Allies for the introduction of additional German forces into the neutral zone on March 19th. Evidently Mr. Mayer had repeated his request on March 23rd and at that time Mr. Millerand had refused his consent. On March 27th the Germans had proposed that if permission were granted and the German forces were not withdrawn within six weeks the Allies should have the right to occupy Frankfort, Darmstadt, etc. Mr. Millerand had at that time taken the position that if the German troops were allowed to occupy any section of the neutral zone a similar privilege should be accorded the Allies. It was this which had led to the statement by the German Chancellor in the National Assembly. No definite agreement had been reached but the German Chargé d'Affaires had again taken up the matter on Tuesday last when Mr. Millerand had given him his final answer as confirmed by his note of March 31st, since when his views had not changed. To sum up, the present situation was as follows: The neutral zone had been entered by German troops which he insisted should be withdrawn and in view of his information in which he put full faith he was opposed to the Reichswehr forces entering the Ruhr Basin.

WALLACE

862t.01/25 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 4, 1920—1 p.m.

[Received April 5—7:11 a.m.]

272. My 270, April 4, 10 a.m.²⁴ German Government has today telegraphed to its Paris representative that in view of unexpectedly favorable result of police action in Ruhr district, quiet will be restored in seven days and return of troops, which in small numbers have been sent into neutral zone, will then be possible. It is therefore requested that further action be held up until expiration of that time.

DRESEL

862t.01/27 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 4, 1920—9 p.m.

[Received April 5—7:20 a.m.]

273. Supplementing my 270, April 4, 10 a.m.,²⁴ and 272, April 4, 1 p.m. I learn here that Millerand acting as "French Minister for

²⁴ Not printed.

Foreign Affairs" yesterday presented sharp note to German Chargé d'Affaires in Paris calling attention to German admissions that letter of articles 43 and 44 of peace treaty have been violated by sending of certain German forces into Ruhr. Millerand quotes article 44 in which violation of neutral zone is described as act "calculated to disturb the peace of the world" and closes by stating "I shall inform you later of the decision of the Government of the Republic".

I beg to call attention to indications in this note that French may contemplate separate action against Germany. As before emphasized such a move as French Army occupation of Frankfurt-am-Main or any other district, for example, would have most unfortunate consequences and would be a heavy penalty for the technical offense which Germany has admitted. Paris informed.

DRESEL

862t.01/29: Telegram

The Observer on the Rhineland High Commission (Noyes) to the Secretary of State

COBLENZ, April 4, 1920—10 p.m.

[Received April 5—10:21 a.m.]

French Government has ordered General Degoutte to concentrate troops in the Mainz bridgehead for possible advance on Frankfort and Darmstadt. This noon the latter through Brigard [*Tirard?*] requested the High Commission to declare a state of war participated [*precipitated?*] in that bridgehead as soon as operation has been determined upon which may be within a few hours. The Commission agreed. I disassociated myself with [*from*] the Commission's action, merely agreeing to transmit information to you. Information seems authentic that German Government has determined to use troops in the neutral zone exceeding existing arrangement and has probably already taken this action. German Chancellor told British Chargé d'Affaires that, admitting technical violation of the treaty, this use of troops in the Ruhr was not a violation of the spirit of the treaty, since it was not aimed at the Allies and was absolutely necessary to save at the same time cities and peaceful workmen. Information about this latter point is conflicting. An unanimous appeal signed by both Social Democratic Party and the Burgomaster of Duisburg begged from Berlin quick action to prevent any wholesale slaughter. Other reports claim improved conditions and that necessity for more troops only a pretext. French contemplated advance will possibly bring downfall of the Muller government and perhaps disorders extending to occupied territory. It is my opinion.

that the danger to the Allies of permitting additional troops in the neutral zone is very slight compared to the need for restoring order in the Ruhr. If there is a real belief that this movement of troops to the Ruhr threatens the safety of the Allied forces would you agree to reinforcements be[ing] massed opposite them rather than at the point farthest away.

NOYES

862t.01/27: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, April 5, 1920—5 p.m.

98. Referring to your 273 of April 4 and other recent telegrams. Regarding various issues involved in Ruhr disturbances, following is this Government's attitude.

1. If use of troops should be necessary in the neutral zone to quell disturbances, German, not Allied troops, should be used.

2. In an emergency there would be no objection to advance of Reichswehr in reasonable numbers into the neutral zone under suitable guarantees of withdrawal when conditions are more settled.

3. Further French occupation of German territory is disapproved as likely to bring about complications and possible defensive union of all the German factions.

4. Although the present German Government is lamentably weak, it is considered the sole present alternative to a government of the extreme Right or the extreme Left and the only one able to insure reasonably fair elections.

Have given Wallace full details of above. However, you will understand that since we are not a party to the treaty, this Government cannot insist officially on its viewpoint. This summary of the attitude of the United States is given for your confidential and private information only, and so that if you see fit you may suggest changes.

COLBY

862t.01/31: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 5, 1920—5 p.m.

[Received 11 p.m.]

903. Mission. I have received from the Secretariat General a copy of the French translation of a note, dated April 3, from Goepfert, president of the German delegation to Peace Conference, English translation of which reads as follows:

"Mr. President: By order of my Government I have the honor to inform the Allied and Associated Governments of the following: As a consequence of the serious news which reached us about the middle of the month of March relative to the outbreak of serious trouble in the Rhino-Westphalian territory, the Germans at that time asked the consent of the Allied Governments to a temporary occupation by a limited number of German troops of the threatened region situated within the 50 kilometer zone offering at the same time guarantees for the withdrawal of these military forces at the time desired. The negotiations relative to such guarantees, the provisional result of which was set in writing, finally reached the following result: In spite of the serious reluctance of the German Government the Allied Governments would be authorized to occupy the German cities of Frankfort on the Main, Darmstadt, Hanau, Homburg and Dieburg in case the troops in the neutral zone in excess of the number formerly agreed upon, should not evacuate that zone as soon as they had accomplished their task or within a time limit fixed by the Allied Governments.

Recently, however, the French Government has further stated that it was indispensable that it should be furnished proofs that in fact order could not be restored in these regions without the entry of troops.

According to the extremely alarming news constantly received since then by the German Government there can unfortunately no longer be [any] doubt that it is impossible to reestablish within a short time order and calm without some temporary military action. As is proved by the desperate cries of distress which reach us at every hour of the day the situation has become crucial so that today it is no longer a question of the happiness or misery of the inhabitants of these regions only but a question of the whole economic life of Germany being seriously threatened; flying the communist flag the populace has utterly terrorized all forms public life, has indulged in requisitions and pillage, has paralyzed the actions of all Government organs and has threatened life and security. The matters have so developed that in certain parts of the Ruhr Basin industrial production, in particular the mining of coal and the operation of the blast furnaces, has ceased and enforced cessation of railroad traffic has occurred. The maintenance of economic life and the distribution of food supplies are endangered not only in the region where these disorders are taking place but throughout Germany. There is no longer any political power in existence which can moderate and control the course of events even in any slight degree. The executive councils and the central councils recently constituted helped, it is true, to reach agreements tending to put a stop to the general strike and to establish order and calm. But these agreements are in fact of no value, the instructions of the executive and central councils are no longer observed because power has passed from their hands into those of the armed populace.

As the Allied and Associated Governments themselves will not fail to recognize, it is a necessity [affecting] Europe in general and together [*as well as*] a question of humanity to come to the help of these hundreds of thousands of inhabitants of the disturbed districts

who are in the greatest misery. Especially, it is a sacred and imperious duty of the German Government not to abandon for formal reasons their compatriots in danger. If, therefore, [under] unquestionable necessity German Reichswehr troops advance into the region in question exceeding the forces already authorised on August 9 [8], 1919, I will forward requests that, after having consulted Ebert,²⁴ the necessary formal authorization be given.

It is not a question of taking action against the working population whose representatives on the contrary have urgently requested help but only of fighting the anarchistic elements. The Reichskommissar and Prussian Minister of the Regulations has been entrusted [with] the supervision of this expedition and is now at Münster. No military measure can be taken without his consent.

The German Government does not doubt that under these circumstances and taking into account Germany's distress the Allied Governments will give their consent. It repeats most emphatically its formal offer to give all possible guarantees for the immediate withdrawal of the troops as soon as order has been restored. In particular it would also be disposed to consent to the sending of an inter-Allied commission which could form on the spot an idea of how long the situation would justify the troops in remaining and all facilities would be granted this commission for finding out the facts.

The German Government hopes that the Allied Governments will not fail to realize that Germany is struggling with a situation which imperatively requires action and in which every hour of hesitation is apt to entail irreparable disaster.

At present the German Government does not consider that it is acting contrary to the spirit of the treaty of peace. The terms of the treaty in question are designed to guarantee world peace as is clearly shown by article 44. The measure which the German Government has decided upon in this extreme necessity constitutes, according to these reasons and to its object, a simple measure of police protection necessitating a temporary reenforcement of the military forces which have already been allowed within the zone to this end but which are insufficient. Far from being a hostile act towards the Allies or from troubling world peace this measure is exactly designed to maintain order and peace.

[Hereafter as heretofore] the German Government is firmly determined to loyally fulfill its obligations. But for this action it is necessary that the authority of the state be reestablished as soon as possible in a region the calm and order whereof constitute a capital condition of the execution of the most important provisions of the peace treaty. Accept, etc."

The Secretariat General also informs me that there will be a special meeting of the Ambassadors' Conference tomorrow, Tuesday morning, for the purpose of discussing this note. In the absence of other instructions I shall be guided by the instructions contained in your telegram number 666 of April 2, 1 p.m.

²⁴ Frederic Ebert, President of Germany.

In this connection General Allen²⁵ informs us that the following was obtained at 4:30 [this] morning by telegram from the German War Department as a declaration of the German Government. In addition it bears the signature of General von Lossberg commanding the Cassel Reichswehr group and commander in chief of all troops operating in the Ruhr district:

"The German Government oblige themselves at the expiration of the operations necessary for the restoration of the supreme power in the Ruhr district to withdraw the troops. The German Government have already (April 4) declared in Paris that they hope it will be possible to withdraw the troops at the expiration of one week. Written confirmation follows."

WALLACE

862t.01/33 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 6, 1920.

[Received April 6—6:18 p.m.]

905. Following received this morning from Coblenz.

"Darmstadt and Frankfort occupied by French at 4:45 this morning without action, one battalion of the Sicherheits Police troops surrendered in their barracks, negotiations for the laying down of their arms are now going on.

Hanau is being occupied by the French cavalry, all is quiet and everything proceeded according to schedule. Reenforcements are coming from France as per schedule. All arrangements have been made in case of enemy reaction at any part of the front.

Talk of general strike in Wiesbaden was expected there last night but this morning all is quiet. There is no reaction in Coblenz. Coblenz entirely quiet and no sign of a strike."

WALLACE

862t.01/39a : Telegram

*The Secretary of State to the Observer on the Rhineland High Commission (Noyes)*²⁶

WASHINGTON, April 6, 1920—7 p.m.

Answering resolution of inquiry President advised the House April 1 that American troops on Rhine are subject only to Presidents orders, that American troops and territory they control are governed by armistice terms, that Foch has no authority over American

²⁵ Maj. Gen. Henry T. Allen, in command of the American Army of Occupation.

²⁶ Via the Embassy in France as no. 701.

troops and that General Allen has full authority to utilize troops for police of occupied district to preserve order and repel any attack made upon him. President stated State Department representative and American commanding general in Germany were instructed that United States cannot admit jurisdiction of interallied Rhineland commission over portions of Rhenish province occupied by American forces; that they should maintain closest touch with high commission and so far as possible endeavor to conform within American occupied territory to administrative regime adopted by high commission for other portions of occupied territory; that there is no objection to American representatives sitting informally with the high commission if requested, nor of continuing their activities with special committees to handle coal distribution etc; that they should in general cooperate with high commission while making it perfectly clear that they are still operating under the armistice and in no way bound by Rhineland agreement terms nor by the memorandum of June 13, 1919 defining relations between military authorities and the high commission. The President added that the instructions directed that ordinances orders regulations etc relating to financial and economic matters including those similar to one adopted by high commission which it is desired to put into force in territory occupied by American forces should be issued by General Allen as commanding general of American forces in Germany but only after having first been approved by you.

COLBY

862t.01/47 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 6, 1920—7 p.m.

[Received April 7—5:17 p.m.]

911. Mission. Your 666, April 2, 1 p.m. Meeting of Ambassadors' Conference called this morning to consider German note of April 3d transmitted in my 903 April 5, 5 p.m., was postponed at the request of British until tomorrow afternoon, Wednesday, so that Derby may be present.

I saw Millerand this morning on another matter and informed him as regards his inquiry of March 29²⁶ relative to the question of guarantee, that it seemed to you that German offer was ample and that in event Allied officers with German forces should consider they were needed beyond fixed period, then further occupation of German territory should be reconsidered. I also stated your views as regards troops still interned in British zone.

²⁶ See telegram no. 848, Mar. 29, from the Ambassador in France, p. 300.

Mr. Millerand stated that he had not been able to consider the German proposal as a guarantee but rather a progress [*prolongation?*] of the war which he would have been prepared to accept from anyone but the Germans. In explanation he cited a recent instance to show how little faith could be placed in German statements. On April 3, while the French Chargé d'Affaires in Berlin was being informed by Chancellor Muller that the German troops would not advance into the Ruhr and that nothing would be done without the consent of the Allies, in another room, General Barthelemy was informed by the Under-Secretary for Foreign Affairs, Von Haniel, that General von Watters commanding the Government troops in the Ruhr region had been authorized by Berlin to act in the matter.

Millerand explained the situation with which he was faced on Saturday. The Germans had sent their troops into the Ruhr in the face of his refusal to permit any violation of articles 42 and 44 of the treaty. In view of the situation thus created he had been forced to take gages to ensure the withdrawal of the German forces. He had so informed the German representatives and as I knew by the press this morning the French troops had occupied the Frankfort area.

Millerand cited the principles of [*the principal*] steps which had [led] up to the present action. He recalled the fact that the first request for permission to send troops into the Ruhr had been made on March 15 by the Kapp government and that the second request had been made on March 17 by Von Haniel in charge of Ministry for Foreign Affairs. The Germans probably knowing that he was the one Ally who had opposed their request had come to ask him for permission to break the provisions of the treaty. They had claimed various reasons to justify their request. He had replied to them that he would concede to their demand provided he were convinced of the absolute necessity therefor. As he had already informed me his information had not concurred [*accorded?*] with that of the Germans. Not only was it reported by French officers but also by British and Belgian officers that the Reichswehr were not needed in the Ruhr. As the infraction of articles 42 and 44 of the treaty to which France attached such great importance, particularly as they had been referred to in the first article of the projected Franco-American treaty, was a most serious matter, he had refused to permit the German troops to enter, inasmuch as he had not been convinced that it was necessary for them to do so. He had at that time told the Germans that he believed that the introduction of the Reichswehr forces would lead to trouble and possibly the destruction of the mines. He has now just heard that some sabotage had already taken place.

Millerand stated that the conditions on which the French troops had entered the Frankfort area were fully set forth in proclamation

issued by General Degoutte and he laid stress upon the fact that this action was in no way to be considered as a hostile act. As an instance of the attitude of the French force he stated that the battalion [of the] Sicherheitspolizei which had been found in Frankfurt had been set at liberty after being disarmed.

I have just heard that Millerand has sent a note to the German delegation reiterating the assurance set forth in the Degoutte proclamation to the effect that the French troops would be withdrawn as soon as the German force had completely evacuated the neutral zone.

WALLACE

862t.01/49 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 6, 1920—7 p.m.

[Received April 8—9:20 a.m.]

285. In conversation with Under Secretary of State Haniel he emphasized that in the interest of Europe Germany was forced to be the judge as to when it was necessary for her to take active measures to suppress disorders as was the case in dealing with Ruhr situation. He further stated that if Germany violated treaty it was clearly a matter for the League of Nations and that Germany's note of protest (see my 279 of today ²⁷) has been sent this morning to the League of Nations as well as to the Allied Governments.

Haniel stated that the German Government had today requested a prolongation of the agreement of August 9 [8] regarding the maintenance of troops in neutral zone which otherwise expires on 10th instant. He added that troops in Ruhr in excess of number allowed by this agreement would be withdrawn by the end of week and no occupation south of the Ruhr would be attempted.

French action has caused less popular excitement in Berlin than might have been feared. It will, however, render more difficult than ever the reestablishment of tolerable relations between France and Germany and add a heavy burden to harassed Muller government, which has just received a new set of demands from the trade union. My 281 ²⁸ of today gives attitude of the leading party organs on the present situation.

2. Greatly appreciate Department's telegram number 98 of April 5, 5 p.m., giving the Government's position which is a most helpful guide. The four principles controlling Department's attitude entirely coincide with my own convictions.

DRESEL

²⁷ Telegram dated Apr. 7, p. 315.

²⁸ Not printed.

862t.01/35 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 6, 1920—11 p.m.

[Received April 6—7:08 p.m.]

915. Mission. Referring to my no. 907, April 6.²⁰ Following is translation of Goeppert's reply to M. Millerand's note of April 3²⁰ copy of which together with copy of Millerand's note was sent me this afternoon by the German delegation.

"Referring to the letter addressed yesterday by Your Excellency in your position of French Minister for Foreign Affairs to the German Chargé d'Affaires, I have the honor to beg you kindly to inform the Allied and Associated Governments of the following:

As the police action against the gangs of plunderers in the Ruhr Basin which did not observe the agreement of Bielefeld has given more satisfactory results than could be expected it has been possible already to liberate several of the most important points which were in the hands of these gangs such as Duisburg, Oberhausen, Sterkrade and Recklinghausen. The German Government expects this action to end in seven days so that the evacuation of the neutral zone by the insignificant reinforcements which entered into it lately may begin at that time.

In consequence the German Government requests that all eventual measures be suspended until the expiration of this short period.["]

WALLACE

862t.01/45 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 7, 1920.

[Received April 8—12:32 a.m.]

279. The following is summary, with quotation of most important passage, of German note of protest regarding occupation of Frankfort, etc., presented French Government, Paris, at 8:30 this morning:

Occupation of German cities took place before French note was received. If no blood has been shed the German Government is to be thanked for having given the order not to oppose the French advance. German Government must raise the sharpest protest in the name of right, reason and humanity against the procedure of the French army. German Government will not discuss with the

²⁰ Not printed.²⁰ Note of Apr. 3 is summarized in telegram no. 273, Apr. 4, from the Commissioner at Berlin, p. 306.

French Government whether violation of text of articles 42 to 44 of peace treaty and complementary agreements has taken place. It was certainly not the intention to prevent Germany from restoring order in a part of its territory disturbed by bands of robbers and murderers. Such action would be only a police action. Germany alone [bears] the responsibility for the life and well being of her citizens and she may claim the ability to judge more clearly the situation in her own land than any foreign body. Recent events in the Ruhr have shown that her action there was for the best as everywhere where troops have come, the revolutionary movement has collapsed. Germany may clearly take the position that an intentional violation of the peace treaty has not occurred.

"Even if such a violation had occurred the military act of violence of the French Government would not be justified. When the Allied and Associated Governments, in a draft of a protocol regarding alleged violations of the treaty, desired to maintain all military and other compulsory measures even for the time after the going into effect of the peace treaty the German negotiators pointed out that such a reservation would not be compatible with a state of peace. The Allied and Associated Governments in their note of December 8th subsequently recognized that, after the going into force of the peace treaty, the consequences of any nonfulfillment of treaty obligations should be defined only according to the general provisions of the peace treaty as well as according to the customary methods of procedure recognized by international law. The present procedure of the French Government stands in the sharpest contradiction to this. The peace treaty does not provide the right of any signatory power in case of the nonfulfillment of a treaty obligation by Germany immediately to reply with a military invasion of German territory. In addition, the French Government has ignored fundamental provisions of the Covenant of the League of Nations which form an integral part of the peace treaty. If the French Government actually believes that it could consider German action as real attempt to disturb the peace of the world, this should have been dealt with according to the provisions of the Covenant as a matter affecting the entire League. The solution of such a conflict between a member and a nonmember of the League should not be met in the first instance with force but rather solved by international agreement."

French action will have most serious political and economical consequences which will remain even though the course of the operation justifies the hope that the German troops which have penetrated the neutral zone in excess of the number allowed can be withdrawn within a few days. It is impossible for any government in Germany to restore peace and order if, at every step, she is met by unjustified suspicion and new oppressive measures. End note.

DRESEL

862t.01/40 : Telegram

The Observer on the Rhineland High Commission (Noyes) to the Secretary of State

COBLENZ, April 7, 1920.

[Received April 7—6:04 p.m.]

Following identical telegram sent to their Government by each High Commissioner today:

“British Army Command informs High Commission 5,000 Red troops took refuge in British zone yesterday evening. About 15,000 more expected cross British frontier today either by train or singly. They state they seek refuge in occupied territory from fear of massacre or execution without trial by Reichswehr. British authorities are disarming and interning refugees but their numbers make work of guarding and feeding for prolonged period impossible.

High Commission has approved action British authorities which conforms to procedure previously adopted towards Reichswehr refugees in British zone, see my telegram March 22.⁸¹

High Commission suggest Allied Governments should negotiate with German Government for repatriation to unoccupied Germany of refugees from the Ruhr with suitable guarantees. High Commission calls attention of Allied Governments to urgent need for decision in view of food situation. High Commission is inclined to permit workmen to return to Ruhr district should they so desire. In this case they would probably demand guarantees.”

NOYES

862t.01/39 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

[Paraphrase]

LONDON, April 7, 1920—4 p.m.

[Received April 7—12:25 p.m.]

560. I learn today from Curzon that the French Government's action in sending troops across the Rhine was taken not only without the British Government's knowledge and consent but contrary to advice they had given previously and their repeated refusals to sanction such a move. Last week when rumors of French intention reached London, French Ambassador assured Curzon that such a move on France's part without the knowledge of the Allies was incredible. Unquestionably this statement was made in good faith and through lack of information on Cambon's part. The British Government considers the move ill advised and unnecessary and without legitimate connection with Ruhr Basin events. The matter

⁸¹ Not printed; see telegram no. 790 from the Ambassador in France, p. 298.

is considered one of utmost gravity and Cabinet meeting has been called for tomorrow to consider course of action of British Government. Italian Government disapproves also. Curzon will appreciate any information I can give him regarding attitude of the United States. Informed Paris, no. 161.

DAVIS

862t.01/39: Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, April 8, 1920—4 p.m.

359. Your 560. April 7.

On March 26 Department authorized Wallace to state to Millerand that American Government had been kept informed of discussions which had taken place in Council of Ambassadors on subject of giving permission to German Government to send additional troops into neutral zone and that in opinion of this Government such permission should be granted if additional troops appeared necessary to restore orderly conditions. Wallace was also authorized to state that this Government considered that further occupation of German territory had no bearing on matter and should not be contemplated, since additional German forces in neutral zone were to be permitted only until order was restored.

This message was delivered to Millerand on March 29 and he requested information as to whether American Government did not believe that Germany should give some guarantee that the troops would eventually be withdrawn from neutral zone. Department answered this inquiry on April 2 stating that it remained the opinion of this Government "that advance of Allied troops into unoccupied Germany could only have unfortunate consequences in further irritating Germans perhaps even to extent of bringing about common action between communist forces in Ruhr region and German Government troops. In such event the situation would indeed be critical." Department further stated that "German counter-proposal that if German troops remained in Ruhr district more than four weeks French should have right to occupy Frankfurt region is sufficient guarantee of German withdrawal and this arrangement Department would approve."

Since it is understood that British, Belgian, and Italian Governments have already expressed to French Government their disapproval of advance into unoccupied territory of French troops, and since the American attitude on the subject was already known by French Government, this Government is inclined to make no formal protest at this time but rather to await developments of the next few days.

COLBY

862t.01/69a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, April 8, 1920—1 p.m.

713. Cable promptly and fully for our guidance your impressions of situation arising out of the Ruhr Valley question, particularly the situation arising from occupation by French forces of Frankfort and other cities. Also cable any information you can obtain or have received in regard to actions which are contemplated by other nations or communications which have been exchanged.

COLBY

862t.01/29 : Telegram

*The Secretary of State to the Observer on the Rhineland High Commission (Noyes)*³²

WASHINGTON, April 8, 1920—7 p.m.

Your April 4. Referring your final sentence Secretary of War states that if reference to massing of reinforcements means the massing of French troops in American area, War Department believes that answer should be a decided and positive negative. If the question has to do with disposition of American forces, War Department considers that General Allen should be given a free hand to dispose of his forces solely for purpose which he has been instructed to serve, namely the policing and preservation of peace and order in the area under his control, and that he should not re-dispose his forces in order to participate in any action contemplated by French military authorities.

This telegram for your information since matter is purely military. It is understood that Secretary of War has issued his instructions direct to General Allen.

COLBY

862t.01/103

Memorandum by the Secretary of State of a Conversation with the Italian Ambassador, April 9, 1920

The Italian Ambassador called and discussed the Ruhr Valley question. He said he had a cable from Mr. Nitti in which the latter expressed the view that insistence should be placed upon (1) the retirement of the French troops from the Ruhr Valley and (2) the

³² Via the Embassy in France as no. 721.

substitution of diplomatic and civilian missions for the present military missions in Germany.

He further stated that both the above suggestions had been communicated by Mr. Nitti to the French Ambassador at Rome, and by the Italian Minister at London to Mr. Lloyd-George, and that he, the Ambassador of Italy to the United States, was instructed to make the same communication to the State Department.

With reference to point (2) above-mentioned the Italian Ambassador stated that Mr. Nitti believed that much friction and disorder in Germany were due to the present military missions and that this friction would be alleviated if civilian missions should be substituted for the military missions in Germany.

The Italian Ambassador further stated that the foregoing suggestions have been communicated in a most friendly spirit to France, from whom Italy does not desire to dissociate herself in the common tasks and attitude of alliance.

862t.01/40 : Telegram

*The Secretary of State to the Observer on the Rhineland High Commission (Noyes)*⁸⁸

WASHINGTON, April 9, 1920—1 p.m.

Your April 7. In Department's opinion action of British authorities toward Red troops taking refuge in British zone is correct. Department appreciates urgent need of decision in matter in view of food situation in Ruhr district and hopes that negotiations may be concluded promptly with German Government for repatriation, particularly of workmen, under whatever guarantees may be necessary.

COLBY

862t.01/55 : Telegram

The Ambassador in Belgium (Whitlock) to the Secretary of State

BRUSSELS, April 9, 1920—11 a.m.

[Received 3:09 p.m.]

59. A Crown Council was held yesterday afternoon at the Palace to examine the situation created by the events in Germany. Legally [*sic*] desiring to affirm the principle of solidarity among the Allies in their attitude toward Germany and to give a testimony of friendship to France, the Government has decided to inform the French Government that it is ready to participate in the measures of occupation taken by the French Government by sending a detachment

⁸⁸ Via the Embassy in France as no. 727.

of troops if desired. It states that these measures must end as soon as the troops of the Reichswehr now in the valley of the Ruhr shall have evacuated the neutral zone.

WHITLOCK

862t.01/64 : Telegram

The Ambassador in Belgium (Whitlock) to the Secretary of State

[Paraphrase]

BRUSSELS, April 9, 1920—6 p.m.

[Received 8:45 p.m.]

60. With reference to my 59, April 9, 11 a.m. Had a long talk with Hymans today who said his Government is not altogether pleased with the French Government's precipitate action. Hymans was at Bruges and the King in Paris for Easter holiday when on April 4 a message arrived from Millerand asking Belgium to join in military movement on right bank of Rhine. Hymans on April 5 instructed Gaiffier³⁴ at Paris to state that although Belgium shared the French concern, it feared grave consequences might follow a forward movement on right bank of Rhine and that Belgium felt that before resorting to measures of military constraint, it would be better to summon Germany to evacuate neutral zone within a fixed time; that if, however, Allied Powers were agreed on common action Belgium was ready to join them. The French acted before a reply to this telegram could be received, thus confronting Belgian Government with a *fait accompli*, and much as they disliked, Hymans considered the important thing was to maintain Allied solidarity lest German public opinion conclude that France was isolated and that the Allies were no longer united. King and Ministers did not return until yesterday from their Easter holidays, and a Crown Council was held last evening, in which, although adhering to the views expressed in instructions of April 5 to the Belgian Ambassador at Paris, the resolution reported in my 59 was taken. Belgium will send a battalion of infantry to join the forces of France.

WHITLOCK

862t.01/58 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

[Paraphrase]

LONDON, April 9 1920—6 p.m.

[Received April 9—3:23 p.m.]

580. Cabinet yesterday determined to protest against the French action which it is claimed is contrary to assurances given by Mille-

³⁴ Baron de Gaiffier d'Hestroy, Belgian Ambassador to France.

rand and Paléologue in Paris and by Cambon in London. A note of protest was accordingly sent which I have not seen but which I understand is emphatic. As a further mark of displeasure the British Ambassador in France was instructed to withdraw from the Conference of Ambassadors until the French gave assurances that there would be no repetition of action of present character. Although unquestionably feeling great irritation at lack of cooperation, the British Government appreciates the necessity for continued cooperation against Germany if the treaty is to be enforced. It believes the present action is largely due to reasons of personal and domestic politics on Millerand's part and the influence of military advisers. Nitti has communicated Italian disapproval to the British Government. Reported Belgian decision to support the French with troops not understood nor confirmed but was perhaps [prompted] by Belgian belief that the French were acting in concert with the other Allies. I have given Curzon outline of attitude of United States as given by your 359 of April 8.

DAVIS

862t.01/56 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 9, 1920—11 p.m.

[Received April 9—6:39 p.m.]

950. Mission. The following note was transmitted to me by the German Peace Delegation to-day:

"Paris, April 8, 1920. From Goeppert to the President of the Peace Conference.

I have the honor by order of my Government to call the attention of the Allied and Associated Governments to the note which was addressed to the Inter-Allied Commission of Control on April 8 and copy of which is annexed hereto.

In that note the German Government solicited an extension until July 10th, 1920, of the authorization, which was granted on August 8, 1919, to maintain 20 battalions, 10 squadrons, and 2 batteries in the 50 kilometer zone.

I am taking the liberty of insisting on the fact that a complete retreat of troops from that part of the Ruhr Basin situated in the demilitarized zone would fatally compromise the success of the policing action which is being carried out at the present time with so much difficulty and at a cost of great sacrificing and would again expose the peaceful population to the attacks of bands of pillagers and assassins.

As the time limit for which the authorization is granted will expire on April 10th it would be extremely desirable to obtain a decision as soon as possible.

Accept, et cetera."

WALLACE

862t.01/62 :Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, April 9, 1920—midnight.

[Received April 10—5:02 a.m.]

954. Mission. I learn from Derby that when he presented to Millerand this afternoon the communication substance of which I have cabled,⁸⁴ the latter handed him a lengthy written reply, having had the communication since this morning from Cambon. French reply, the text of which Derby will give me tomorrow morning, stated the various matters in which it was important for the Allies to act harmoniously, cited infractions of the treaty by Germany, informed the British that France could not imagine an instance that could arise in which France again would have to act alone and assured the British Government that France would take no action without consulting her Allies, if such a case did arise. It also stated that as soon as the unauthorized German forces had evacuated the neutral zone, France would withdraw from the Frankfort area. Derby telephoned the substance of the reply to Lloyd George who was not satisfied and asked Derby to withdraw from the Conference of Ambassadors. However, he persuaded Lloyd George to permit him, for the present, to attend the meetings at which there should be discussed questions unrelated to encroachments on German territory. Derby told me he would take up the question again with Curzon and later with Lloyd George who tomorrow leaves England for Marseilles. Derby also told me that this evening my Italian colleague came to see him and that he was instructed to follow his British colleague and withdraw from Conference of Ambassadors. Bonin therefore will follow Derby's action. Derby received the impression that Millerand was relieved at the nature of the British note. He had evidently expected a stiffer attitude on Great Britain's part. The next meeting of the Conference of Ambassadors will be held Monday with only questions relating to the Hungarian treaty on the agenda. I will cable the text of Millerand's reply to Derby when it is received tomorrow morning.

WALLACE

⁸⁴ Telegram not printed.

862t.01/73a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, April 12, 1920—10 a.m.

737. Communicate following informally to French Government, leaving no written memorandum:

The Government of the United States has noted with deep concern the French advance into Frankfort and vicinity. Although the French fear of German militarism is regarded with sympathy, and although the Government of the United States desires to see that fear removed by strict fulfillment of military terms of the Treaty, it cannot but feel that the sudden French advance, because of a technical violation of article 44 in an emergency, was unfortunate and may be followed by serious consequences. This seems particularly true as the German Government informed the French Government on April 4 that the German forces in the neutral zone had been unexpectedly successful in quelling the disturbances and that all the troops above those permitted by the agreement of August 9 [8], 1919, could probably be withdrawn within one week. The Government of the United States feels that restoration of law and order in the disturbed zone is all-important for peace and safety of the world, and that opportunity to restore order should be given the German Government, upon whom that duty primarily rests. The Government of the United States can only reiterate its already expressed opinion that occupation of more territory in Germany promises to cause a junction of militaristic forces in Germany and elements of German people striving for revolution and the overturn of political and economic order.

The Government of the United States, fearing the effect of the occupation of Frankfort and adjoining towns, would be pleased to have the French Government inform it as to the precise meaning of its statement that French forces will be withdrawn as soon as the German forces have "completely evacuated" the neutral zone. The Government of the United States understands that the agreement of August 9 [8], 1919, permitting a specified number of German troops in this zone for police purposes, expires April 10. It is further understood that an extension of this agreement has been requested by the German Government. The Government of the United States sincerely hopes that the French Government will acquiesce in this request as it is clear that the withdrawal of all German forces, as apparently the French contemplate, would leave the Ruhr region quite defenseless against elements of the population responsible for recent disorders. The Government of the United States considers

the restoration of order of supreme importance. It is confident that this being also the French Government's primary concern, the latter will appreciate the wisdom of extending or renewing the agreement of August 9 [8], and the announcing of the withdrawal of its own troops from the recently occupied regions as soon as German forces not needed for maintaining order are withdrawn from the valley of the Ruhr.

COLBY

 862t.01/6 : Telegram

*The Secretary of State to the Observer on the Rhineland High Commission (Noyes)*⁸⁶

WASHINGTON, April 13, 1920—5 p.m.

Your March 6, 10 p.m.

In view of present situation Department hopes that you will hold your resignation and consent to retain your present position at least for the time being. Department would be seriously embarrassed to find a successor to you and your resignation during the present crisis could not fail to be misinterpreted. Department appreciates the difficulties of your situation.

COLBY

 862t.01/77 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, April 15, 1920—7 p.m.

[Received April 16—10:15 a.m.]

999. Mission. Carried out instructions contained in your 737 of April 12. In reply Millerand asked me to call your particular attention to his statement before the Chamber in which he had given the French Government's position.

He emphatically stated that he contested absolutely the claim of the German Government that to restore order, it was necessary to send additional forces into the Ruhr. His information, based on reports of Belgian and British as well as French officers and officials, was entirely to opposite effect: the Ruhr workmen did not desire the Reichswehr's presence. He particularly mentioned the fact that upon receiving the German request for permission to send in additional forces on April 2, the Belgian, British and French Rhine-

⁸⁶ Via the Embassy in France as no. 757.

land High Commissioners had advised their Governments of their unanimous opinion that the sending of more troops was not necessary and should be refused.

Regarding your belief that occupation of more territory might lead to junction of German elements of extreme Right and Left, he stated that the Germans had expressed this fear but that actually nothing of the kind had transpired. The rest of Germany had viewed with complete indifference the occupation of the Frankfort region.

In answer to your inquiry regarding the phrase "completely evacuated", he repeated his statement of April 5 to the German Chargé; namely, that the French forces would be withdrawn as soon as the German forces had evacuated neutral zone, that is, unauthorized German forces, and as agreement of August 8 was in full force at that date this statement referred to German forces in excess of those permitted by said agreement. The situation, in a sense, had changed since that time, as April 10, the date on which the agreement expired, had gone by. On April 8, however, the Germans had asked that the agreement be extended until July 10. He personally considered this request excessive but he was quite prepared to discuss it at the coming Supreme Council meeting at San Remo.⁸⁶ Moreover, he was prepared now to go further and would withdraw the French troops from the neutral zone as soon as the German forces in excess of those allowed by agreement of August 8 were withdrawn. However, there appears small prospect of these forces being withdrawn by Germany as he had just heard that 8,000 more troops had entered neutral zone. Millerand made it quite clear that if the excess German forces were withdrawn tomorrow, he would evacuate the Frankfort area immediately.

Regarding the German request of April 8, he was not in principle opposed to permitting the forces strictly necessary for preserving order to remain in neutral zone, but it should be decided at San Remo whether the Allies should extend the agreement to July 10 as Germany requested, or for a shorter period, or whether they should make a different arrangement with Germany.

Replying to a question as to Millerand's attitude toward the present Berlin Government he said that although ready to lend it his support, nevertheless he thought it leaned too heavily upon the military element and was too much inclined to listen to that element against workingman.

WALLACE

⁸⁶ For correspondence concerning conference at San Remo, see vol. I, pp. 1 ff.

462.00 R 294/39 : Telegram

The Secretary of State to the Observer on the Rhineland High Commission (Noyes) ⁸⁷

WASHINGTON, May 17, 1920—6 p.m.

Owing to the fact that the treaty has not been ratified and that the United States is not likely to have a delegate on the Rhineland Commission, and in accord with the idea of reducing so far as possible American personnel in Europe, the Department has decided to relieve you as American observer on the Commission as you recently requested. After consultation with the Secretary of War it has been decided that General Allen should take your place as observer with the Commission. It is believed that he already has capable assistants but should he desire to retain the services of any of your staff, this may be arranged at least temporarily. You should therefore plan to leave as soon as your work can be conveniently turned over to General Allen.⁸⁸

Your April 29th, 5 P.M.⁸⁹ Expenses up to time of leaving should probably be entered as a lump sum or in accord with the practice of the regularly delegated Commissioners.

COLBY

S62t.01/109 : Telegram

The Observer on the Rhineland High Commission (Noyes) to the Secretary of State

COBLENZ, May 22, 1920—noon.

[Received 10:51 p.m.]

One year ago President Wilson obtained assent of Allies to control of the occupation by a civilian commission and the convention now governing was drawn in accordance with such a plan. Since that time Sir Harold and I have constantly struggled to maintain the Commission as a strictly civilian agency, coordinate, cooperative but entirely independent of the military. I must now inform my colleagues of the change. For this reason, as well as for my own information, would be [*I must?*] inquire whether it is the plan of the Department to abandon for reasons stated in your despatch, American participation in problems of the occupation, confining the activities of the American representative to those questions which directly affect the American zone and Army or is it as General Allen supposes

⁸⁷ Via the Embassy in France as no. 948.⁸⁸ General Allen cabled on June 16 that he had relieved Noyes June 3 (file no. S62t.01/119).⁸⁹ Not printed.

merely an exchange of representatives, the relation of the American department to the Commission remaining as before. Although technically unofficial, and without vote, I have throughout taken part in the deliberations of the Commission on equality with the other Commissioners. In creating the governing ordinances, and securing their application, I have striven to maintain the principles enunciated by President Wilson and to give the occupation a character such that full participation would be tolerable to American people in case of ratification. The substitution of the American Commanding General as quasi-Commissioner would undo the work of a year, would [be contrary to] the President's former insistence on civilian control, would, I believe, embarrass the High Commissioners of at least one other nation and be a first step in altering the character of the Commission and of the occupation. A representation limited to affairs of the American zone would of course have none of these results and would necessitate retention by the General of only very small part of my present organization. I recognize General Allen admirably qualified for the work but am naturally anxious that America shall not be the nation to break down the now established civilian character of the Commission. Personally, I shall be very glad to go home. I respectfully urge answer as soon as possible so that official announcement can be made here before recall leaks out, with possible inaccuracies and implications undesirable from international viewpoint.

NOYES

862t.01/109 : Telegram

*The Secretary of State to the Observer on the Rhineland High Commission (Noyes)*⁴⁰

WASHINGTON, May 27, 1920—4 p.m.

Your May 22nd, noon.

In opinion of Department active American participation on Rhineland Commission is impossible with treaty un-ratified. United States has no representative on other commissions dealing with matters more nearly touching American interests. At the present time the only definite duty of an American representative is to insure so far as practicable agreement between regulations in the American zone of occupation and the general purposes of the commission. For this General Allen is admirably fitted. His appointment as observer therefore is not any injection of the military element into what is and should remain a civilian commission nor is it any departure from the principles enunciated by the President. If the treaty should be ratified the United States would immediately appoint a

⁴⁰ Via the Embassy in France as no. 1024.

civilian commissioner. This being the case and General Allen's duties being only those of an observer, it would appear that a large part of your personnel might be relieved shortly. The Secretary of War has already cabled General Allen that the retention of such of your personnel as he deems essential is authorized temporarily but that as soon as possible he must depend upon his own staff.

COLBY

862t.01/117a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, June 12, 1920—7 p.m.

1106. The Department is receiving telegrams and letters protesting against the use by France of African troops in German occupied territory. Please give your opinion of the truth of accusations against conduct of these troops. If you consider the accusations well founded, advise the Department what representations you think should be made to the French Government on the subject. The Department does not desire to lend too credulous an ear to the sensational reports we receive, and yet the French Government may be much interested to know that such reports are persistent, have a harmful effect on public opinion, and are not refuted fully.

COLBY

862t.01/129 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, June 25, 1920—8 p.m.

[Received 9:48 p.m.]

1325. Your telegrams 1106 of June 12 and 1115 of June 15.⁴¹ It is reported by General Allen that there are at present in occupied Germany regiments of Malgaches, Zouaves, Moroccans and Algerians, but no Senegalese. I am informed that the Malgaches are from Madagascar, Malays, mixed blacks; the Zouaves are special infantry regiments, not negroes; the Moroccan regiments are composed of Arabs, Mahomedans not negroes; the Algerian troops are composed of natives of Algeria of French Arab and French stock, some Mahomedans not negroes. The Senegalese are negroes.

I am informed by Dresel that papers of all shades of political opinion are carrying on the agitation against black troops, that Germany has formally protested to France, that all classes of men

⁴¹ Latter not printed.

have been sending in complaints, that the press feels the United States should understand the situation because of our negro problem and claim[s] that there have been assaults on German women but that the facts cannot be checked, and that deep irritation of people in Frankfort and vicinity at use of black troops is reported by Consul Wood.⁴¹ However, these have been withdrawn.

On several occasions French newspapers have denied stories carried in the German press but I have not seen an official denial and cannot find any in the newspapers.

Minister of War Lefevre on June 17 in the Chamber made the following statement in reference to the Army budget and future of the black troops: "I cannot allow our black troops to be brought into the disrepute they are seeking, on the other side of the Rhine, to inflict upon them".

I would consider it but a friendly act to state to Millerand that the Department is receiving many letters and telegrams of protest and that the French Government may be interested to know that the reports are persistent, have a harmful effect on public opinion and are not refuted fully.

WALLACE

862t.01/129 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, June 29, 1920—6 p.m.

1185. Department authorizes you to carry out informally suggestion contained in your 1325, last paragraph.

DAVIS

462.00 R 294/41 : Telegram

*The Observer on the Rhineland High Commission (Allen) to the
Secretary of State*

COBLENZ, July 28, 1920—11 a.m.

[Received 6:45 p.m.]

German custodian of Government property agrees to pay expenses connected American representation High Commission and also past expenses to date. Request disposition of latter funds when received. Reference my former telegram,⁴² State Department funds no longer necessary for operation this office.

ALLEN

⁴¹ John Q. Wood, American Consul at Frankfort.

⁴² Not printed.

462.00 R 294/41 : Telegram

The Secretary of State to the Observer on the Rhineland High Commission (Allen)

WASHINGTON, July 30, 1920—8 p.m.

Your July 28, 11 a.m.

Is proposed payment of expenses of American representative at the same rate being provided for representatives of other governments? Explain why offer was made and whether as result of negotiations to that end. Are expenses already paid by United States to be refunded to you in cash? If so, can they be utilized for War Department expenses and transfer effected here or can payment be made here through Swiss?

COLBY

462.00 R 294/42 : Telegram

The Observer on the Rhineland High Commission (Allen) to the Secretary of State

COBLENZ, August 2, 1920—11 a.m.

[Received August 2—9:55 a.m.]

Your July 30, 8 p.m. Proposed payment of expenses American representative is result of negotiations based on article 9 armistice agreement. Action approved and recommended by High Commission. Other Governments making same arrangement through Reparation Commission. Impossible for United States to act through Reparation Commission. Expenses already paid by United States will be refunded in cash. They can be utilized for War Department expenses. Funds can [not] be deposited without our authority disbursing. Strongly recommend this procedure as payment through Swiss would cause delay. All payments made under above by Germans will be in dollars.

ALLEN

763.72119/10287 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 10, 1920—noon.

[Received 7:40 p.m.]

1521. B-194 for Davis.⁴³

[Reparation] Commission conclusions to date on collection costs of armies of occupation excepting unimportant details as follows:⁴⁴

⁴³ Norman H. Davis, Under Secretary of State, June 15, 1920.

⁴⁴ See also Boyden's cable of Aug. 2, paragraph 7, and Department's reply of Sept. 1, paragraphs 2 and 3, pp. 415 and 428, respectively.

1st. Commission will transmit to Germany, claims presented by Governments without any attempt to audit reserving right ask for subsequent justification if any question raised by Germany.

2d. Recommend[s] to Governments bills be prepared on capitation basis classified for officers, men, horses, etc. Total cost then obtained by multiplying capitation rate by actual number of effectives. Governments requested to signify whether or not they have adopted this system.

3d. Bills to be accompanied by Government certificate to effect that claim covers only expenses specified article 249 (United States certificate to refer to agreement of June 28th, 1919,⁴³ instead of article 249).

4th. Accounts to be presented to Commission in national currencies and transformed into gold marks at average rate of exchange of quarter concerned prior to presentation to Germany. Paper marks to be converted into gold marks at current official rate of exchange in use by armies of occupation at date of transfer.

5th. Present system whereby military authorities requisition paper marks from Reichsbank approved.

6th. Method of liquidating cost of armies reserved until Commission has arrived at decision as to what deliveries, if any, can be credited against twenty milliards.

7th. Question technical opinion Legal Service that reimbursement by Germany of billeting costs paid by armies in cash must be credited Germany under article 235 although payments made by Germany to her nationals for property requisitioned for billeting purposes need not be credited. Former system used by United States troops. Latter system used by all other armies. Therefore Commission requested me ascertain whether or not in future American Army could arrange adopt same practice as other armies.

8th. Agreement of Governments of June 16th, 1919, that annual cost of armies of occupation under certain conditions should not exceed 240,000,000 gold marks called to attention Commission by Finance Service with the suggestion that delegates ascertain whether or not Governments propose do this. In this connection see article 13, Spa inter-Allied [percentage] agreement, my B-181.⁴⁴

9. Have sent all papers to General Allen with comments asking for his views. Our claims and accounts already correspond substantially with Commission's suggestions so these created no difficulty. Question of transforming claims into gold marks raises question whether not desirable avoid exchange risks by presenting bills in

⁴³ For text of agreement, see *Treaties* (S. Doc. 348, 67th Cong., 4th sess.) vol. III, p. 3524.

⁴⁴ Telegram not printed; agreement referred to is printed on p. 406.

national currencies and so [obtaining?] from Germany exact amount dollars, pounds, francs or lire actually expended by each Government. This involves assumption exchange risk by Germany which she could avoid by making her payments approximately contemporaneous with expenditures, adjusting slight differences when accurate figures determined. Protests [*Provisions*] of article 249 requiring in part payment in gold marks may raise difficulty in some technical minds but I cannot believe this is a really practical difficulty. I thought Commission would take up their request for change in American billeting system but thought it involved practical difficulty possibly also question of policy. Expect Allen to object to this change but wish to know whether War Department objects if Allen sees no objection. Agreement to reduce costs to 24,000,000 [~~240,000,000~~] gold marks not yet effective because conditions not fulfilled so not likely to be practical importance now.

10th. You will see as I have previously reported, Commission apparently proceeding collect United States Army costs with others and on exactly same basis but cannot help feeling that sooner or later Commission will run into technical difficulties in this connection because Commission must act under the treaty and we have not ratified the treaty. They would probably refer any such difficulty if it arises in their minds to Powers but in my mind this possibility emphasizes necessity for taking up question of army costs with Powers and arranging all details as I previously suggested.

Boyden ⁴⁵

HARRISON

763.72119/10526a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, October 1, 1920—6 p.m.

1527. For Boyden, B-132.

1. Following telegram in substance received by War Department. Reparation Commission desires that statement costs of armies of occupation be accompanied by letter from each government certifying that figures given are covered under article 249. It will facilitate presentation of bill if Commanding General American Forces in Germany is authorized to transmit covering letter as required by Commission in behalf of the United States Government. If this is approved by War Department, please request concurrence of Department of State. Allen.

2. Your B-194, August 10th, in reference to statement that bills for army costs be accompanied by Government certificate to effect

⁴⁵ Roland W. Boyden, American unofficial representative on the Reparation Commission.

that claim covers only expenses specified under 249, states that United States certificate should refer to agreement of June 28, 1919, instead of Article 249.

3. As this Government has not ratified Treaty and has specifically stated that it is not bound by Rhineland agreement of June 28, 1919, until ratified by it, but on other hand considers that Armistice continues in force as to United States (See telegram No. 71 of January 9 to Embassy, Paris ⁴⁵), Department believes that so far as United States is concerned its right to reimbursement by Germany for costs of occupation is based on terms of Armistice. Department can not approve reference in statement to agreement of June 28. Since by treaty Germany undertakes to pay all expenses of armies of occupation, it would seem that Germany is obligated to pay all costs of American troops irrespective of our ratification. In view of our understanding with Allies that full costs of American troops in occupation will be met, such costs should be paid by Reparations Commission in the same manner as that of the Allied Armies of Occupation.

4. Following certificate is suggested and if you approve form and content of certificate arrange matter directly with General Allen.

5. "On behalf of the Government of the United States I certify that the charges shown under each item of the attached accounts have been prepared on the basis of the ascertained expenditure incurred during the period stated for each of the various items shown in these accounts, and that the total sum thus arrived at, viz. -----, may properly be considered the total cost of the American army of occupation in German territory for the period----- to -----, which Germany is obligated to pay under the terms of the Armistice Agreement of November 11, 1918,⁴⁶ as well as Article 249 of the Treaty of Versailles. Should any question be raised as to whether any items of these accounts are properly to be considered the cost of the American army of occupation within the meaning of the Armistice Agreement and said Article 249 of the Peace Treaty, the Government of the United States will be happy to furnish any explanation that the Reparation Commission may require."

6. Foregoing is based on proposed form of certificate suggested by the Legal Service in its Opinion No. 77, June 25, 1920. Department not advised whether this form actually adopted. Paragraph 5, however, represents this Government's adaptation of form, consistent with its position in relation to Armistice and non-ratification of Treaty.

COLBY

⁴⁵ *Foreign Relations*, 1919, vol. I, p. 32.

⁴⁶ See *ibid.*, 1918, Supp. 1, vol I, pp. 463, 494.

S62t.01/201 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, November 26, 1920—5 p.m.

[Received November 28—3:32 a.m.]

1344. French Ambassador has received telegram from his Government which translated as follows:

"You have certainly been informed from the telegrams that Tirard sent me to give me information, of the declaration that he made in the High Commission in regard to measures which he will adopt in case the German ministers in the zone occupied by the French Army made declarations similar to those which just occurred at Cologne and Aix la Chapelle. It is inadmissible that ministers of the commonwealth come into territories occupied by our troops under the protection of our flag and forces, hold public meetings in which they declare that they are determined not to execute the clauses of the peace treaty. German ministers must observe in the occupied territory the laws of the High Commission which forbid any failure in respect due to the troops of occupation and the dignity of the Allied Governments and which provide that public meetings can only take place after a declaration in advance made to the authorities.

I shall be obliged if you will consult urgently with your American, British, and Belgian colleagues in order to bring about common representations on the subject to the German Government.

I am asking our representatives at London, Washington, and Brussels to consult the Governments to which they are accredited in this sense begging these Governments to furnish your colleagues with the necessary instructions. It is in [*for?*] the invariable maintenance of order and the security of troops that the German Government receive warning in order to prevent the Red manifestations of this kind. Furthermore, it represents [*is intended?*] that the representation made at Berlin be collective and present an inter-Allied character thus affirming the unity of the view of those Governments whose troops participate in the Rhineland occupation. Legues."

Please instruct me if the Department consider it advisable for me to take part in such representations. Please consult my telegram 1342, November 26th, 3 p.m.⁴⁷

DRESEL

S62t.01/203 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, November 28, 1920—2 p.m.

[Received November 29—2:50 p.m.]

1349. My No. 1342 of November 26.⁴⁷ The British Ambassador here agrees with views expressed in my telegram and emphasizes

⁴⁷ Not printed.

especially that he feels that the speeches made in the occupied areas showed no intention of not executing treaty. He is therefore recommending that his Government should not join in the French protest but should make individual representations or present a joint note much more moderate than the French one. This would not contain claim that nonexecution of treaty was contemplated in the speeches but would point out the great inadvisability of arousing public opinion by such utterances in the Rhineland.

DRESEL

862t.01/201 : Telegram

*The Acting Secretary of State to the Commissioner at Berlin
(Dresel)*

[Paraphrase]

WASHINGTON, December 4, 1920—4 p.m.

1974. Your telegrams 1344 of November 26 and 1349 of November 28. The Department considers our position at Berlin somewhat different from that of Allied Governments and that therefore it is inadvisable for the United States to join in representations in the matter mentioned in your cable. However, if the British and French Ambassadors take action with the German Government, you are authorized, when a favorable opportunity occurs, to mention the subject to the Minister of Foreign Affairs, indicating the view that it is most inadvisable for a member of German Government to proceed while in occupied regions in such manner as to excite public opinion and thereby present an occasion for a French protest. Such informal representations are intended only as suggestion for your guidance if you should consider it would help the situation to best interests of all concerned.

DAVIS

862t.01/205 : Telegram

*The Commissioner at Berlin (Dresel) to the Acting Secretary of
State*

BERLIN, December 4, 1920—4 p.m.

[Received December 6—3:45 a.m.]

1381. At the request of French Ambassador, I attended a conference at French Embassy at which he, the British Ambassador, and the Belgian Minister were present, on the subject of the notes they have all been instructed to present in order to protest against speeches of members of the Cabinet in the occupied districts. I

stated that as I had received no instructions, I should like it best not to participate in the discussion.

The following draft, which was agreed upon after several modifications in the direction of moderation suggested by Lord D'Abernon ⁴⁶ will be presented as separate but identical notes on Monday ⁴⁷ by the three representatives named :

"The Interallied High Commission of the Rhine Province has advised the Governments that it represents, of the emotion raised in the population of this region by the speeches which the commonwealth ministers have recently delivered there.

The Belgian, British, and French Governments consider it highly regrettable that members of the German Government felt that they should occupy themselves in occupied territory with public declarations of a nature to create trouble there and to bring up discussion in regard to the execution of the Versailles treaty. They protest especially against the words which have contested decisions which have been taken in virtue of the treaty by the Council of the League of Nations on the subject of Eupen and Malmedy.

The Belgian, British, and French Governments have advised their representatives at Berlin to invite the most serious attention of the German Government to the grave consequences which such declarations can have for the maintenance of public order, for which the Allied authorities in occupied territory have responsibility. The Governments have charged them to state that movements of ministers of the commonwealth or of the states into occupied territory can only be authorized in the future when these high officials abstain from all attack against the Governments or authorities of the Allies and against the peace treaty."

DRESEL

862t.01/206 : Telegram

The Commissioner at Berlin (Dresel) to the Acting Secretary of State

BERLIN, December 7, 1920—4 p.m.

[Received December 8—12:40 p.m.]

1393. Your 1974, December 4, 4 p.m. In order to prevent possible impression that we were at variance with Allies on the subject I thought it best to talk informally with Simons. While stating our opinion as to inadvisability of course taken by him I avoided anything which could be construed as an actual protest. In reply Simons stated that the journey was not the result of impulse but had been preceded by prolonged Cabinet discussion in which the delicacy of the situation as regards Entente was fully realized. The Government felt, however, that the object of showing interest in the Rhineland population was all important in view of the isolation to which they thought themselves subject; the result had been alto-

⁴⁶ British Ambassador to Germany.

⁴⁷ December 6.

gether beneficial. The population far from having been excited by the speeches was now much more tranquil than before.

In conclusion Simons stated that Cabinet members would in all probability avoid entering the Rhineland in future as they would be unwilling to give assurances demanded.

The matter has been discussed by a Cabinet council but no answer has been sent yet to the Allied protest.

DRESEL

462.00 R 29/417: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, December 15, 1920—10 p.m.

[Received December 16—3 p.m.]

2013. B-352 for Davis.

1st. Have been studying United States technical legal position on army costs in preparation for possibilities when Reparation Commission actually begins collection. Commission so far merely getting together figures. We alone have presented complete figures requested. Commission has shown no tendency to make discrimination between us and others except I noted casual reference by Bradbury⁴⁷ to fact we did not seem to have rights under the treaty until ratification, also Bradbury made some objection to Belgium collecting its share of expenses Rhineland Commission direct from Germany because gave Belgium priority for these expenses over army costs. Believe Bradbury raised no objection to our doing same thing evidently feeling we could do what we pleased because not bound by treaty.

2d. Examining written agreements about army costs find nothing after February 16, 1919, except agreement June 28 regarding Rhineland Commission and army costs which agreement you do not regard as binding. See your despatch Department number 71 January 9th last to Embassy;⁴⁸ also B-152 [*B-132*], October 1. After ratification of the treaty by other powers you notified Germany United States regarded armistice as still continuing. Please send me complete list of pertinent documents so I can check my list.

3d. Our claim against Germany for army costs seems to be resting with written armistice, was following General Allen's lead in this respect. Agreements prior to June 28th which, assuming agreement June 28th not binding, were extended by implication, results from course of action of both parties since June 28 plus definite written notice by us after ratification of treaty by the Powers. This notice

⁴⁷ Sir John Bradbury, British representative on the Reparation Commission.

⁴⁸ *Foreign Relations*, 1919, vol. I, p. 32.

was doubtless acquiesced in by Germany. All this seems clear but gives us only unsecured claim.

4th. Rights of Allies for army expenses depend on treaty which gives first lien against German property and revenue with priority of army costs over all reparation payments. We do not share in these advantages except by ratification of treaty or by some arrangement already made or to be made. We have many times put on record our statement that we expected to get our full costs and that if others wanted our costs reduced must be done by withdrawal of our troops, but this does not give us any lien on German property or revenue or give us any legal rights on payments made by Germany to Reparation Commission by virtue of treaty or any claim for payment by Allies. We are technically unsecured creditors of Germany all of whose property is mortgaged to other Powers.

5th. By article 249 army costs apparently paid direct to Powers. Powers have now appointed Reparation Commission their agent to make collection. United States also expects Commission make collection. Seems inevitable Commission will find itself in technical difficulty because of distinction between our position and position of other Powers. Commission cannot waive security and priority of other Powers in our favor without instructions from other Powers. Seems necessary therefore make some arrangement with Germany and all Powers interested in reparation by which our army costs stand on same footing and have same security and priority as other army costs followed by notification by all Powers to Commission to treat matter on this footing.

6th. If such arrangement made, necessary consider whether or not we accept Spa arrangement not yet binding on us. Probably not very important because coal protocol not very serious, also Belgian priority over army costs under percentage agreement seems now unlikely but these points would need consideration.

7th. Preceding paragraphs ignore possible effect agreement June 28. Strong argument may be made that this agreement was additional armistice agreement separate from treaty not dependent on ratification of treaty, although it refers to treaty for part of its terms providing for mortgage and priority for army costs of each and every Power regardless of ratification by any or all Powers. This of course involves full recognition of validity June 28th agreement which would be merged in treaty if ratified but would remain valid as between United States and other Powers and Germany even if United States never ratified. This would have been my view if you had not cabled otherwise.

8th. While nobody has raised this technical question, seems to me inevitable. Commission knows nothing except written agreements and treaty and knows we have not ratified the treaty and that we

do not recognize agreement June 28. I agree with your B-107⁴⁷ that Governments ought to recognize equitable considerations and treat our army costs like their own but this is beyond competence of Commission unless Governments so instruct Commission. Probably not difficult make any necessary arrangements but desire your views: first, on legal situation; second, whether any and what agreement with other Powers necessary to regularise United States position and put Reparation Commission in position to collect for us; third, if further agreement necessary have proper representatives begin negotiations after definite decision exactly what want ask Government[s] to do.

9th. Incidentally individual delegates have inquired several times whether United States would reduce costs to uniform basis. Have always said flatly not necessary consult you, impossible. This conversation repeated recently with Delacroix.⁴⁸ As already cabled I have no doubt Powers really want to arrange payment of our army costs out of balance property held by Alien Custodian. They would doubtless have already approached you on this and kindred matters, except for realization that political situation [did] not permit discussion of these points. I asked Delacroix informally if he thought would accept suggestion from United States to withdraw army leaving only smallest possible nucleus to show general cooperation. He replied affirmatively. Delacroix said he believed very large part of all troops ought to be withdrawn because now no real danger of German aggression. This statement should be treated very confidentially. Has added interest because he had evidently recently discussed subject with Poincaré though gave no indication that Poincaré agreed. If he [I?] could I would add emphasis to my views previously expressed on this particular subject. Boyden.

WALLACE

862t.01/214

The French Ambassador (Jusserand) to the Acting Secretary of State

[Translation⁴⁹]

WASHINGTON, December 17, 1920.

MR. SECRETARY OF STATE: Your Excellency has no doubt received, as we have, intelligence of the answer of the German Government to our remarks concerning the improper attitude of the German ministers who recently visited the Rhenish country.

⁴⁷ Post, p. 430.

⁴⁸ Leon Delacroix, Belgian representative on the Reparation Commission, succeeding Georges Theunis who resigned Nov. 24, 1920.

⁴⁹ File translation revised.

In compliance with instructions received I have the honor to inform you that the Government of the Republic does not deem it expedient to answer that note unsatisfactory though it be in its wording, but thinks that it will be proper for the Allied Governments to furnish their representatives on the High Commission with precise instructions in case these ministers see fit to renew their manifestations in occupied territory, so that the German authorities may entertain no doubt as to the will of the Allied and Associated Powers that such untoward incidents shall not recur.

The most efficacious method in our opinion would consist in sending to the members of the High Commission identical instructions, which my Government ventures to suggest, might run as follows:

"The Allied Governments strictly adhere to the viewpoint they made known to the German Government in their note of December 6, relative to the movements of German ministers in the occupied regions."⁵⁰

"If in spite of the remonstrance made to them, the German ministers should again indulge in like manifestations in the occupied regions they would make themselves liable to the measures which it would be incumbent on the occupation authorities to take for the guarantee of the order and safety of the Allied troops.

"You may make these instructions known to the German Commissioner."

I hope that Your Excellency will find it possible to comply with the wish I have just had the honor to impart to you and to send instructions in that sense to the American representative on the High Commission.

I should be very thankful to Your Excellency for an assurance to that effect.

Be pleased [etc.]

JUSSERAND

862t.01/213: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 23, 1920—4 p.m.

1720. Your 1974, December 3.⁵¹ The Secretary of War states that the American Army of Occupation after the armistice had a

⁵⁰ See telegram no. 1381, Dec. 4, from the Commissioner at Berlin, p. 336.

⁵¹ Not printed; refers to the Ambassador's telegram no. 1867 of Oct. 29, reporting: "Conference [of Ambassadors] had before it a note from German Delegation dated July 22 requesting that German Government be informed of number of troops in armies of occupation in order that it might make economical arrangements relative to their billeting." (File no. 763.72119/10628.)

strength of about 225,000 men. It was decided in the summer of 1919 to reduce the force to about 15,000. The force has varied from about 8,000 to 16,000, due to bringing home emergency men and sending regular army units and replacements. The War Department has decided recently to reduce this force to about 8,000 men. The reduction will be gradual and should be completed during 1921. Under the terms of the armistice, American troops entered Germany in December, 1918, and now are there under armistice conditions. Their prospective or actual strength and use is a matter for the American Government to determine. The Secretary states further that there is no reason for not informing the German authorities of the proposed strength of American forces in occupied territories but that it should be understood that an emergency might make an increase necessary. You may communicate any or all of above to the Council of Ambassadors in your discretion and use the same as basis of American statement to the German Government.

DAVIS

862t.01/214

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

WASHINGTON, December 28, 1920.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 11 [17], 1920, in which you suggest that instructions be given the American representative on the Rhineland High Commission to join in a collective statement to the representative of the German Government that should German ministers again make statements in the occupied territory calculated to disturb the peace of those regions, the German Government will make itself liable to such action as the occupying authorities deem necessary for the safety of the Allied troops.

In reply I have the honor to inform you that since the United States has no diplomatic representative in Berlin, this Government did not join in the formal protest sent to the German Government on the subject of the speeches made by Ministers Simons and Fehrenbach.⁵⁰ As General Allen, moreover is only unofficially a member of the Rhineland High Commission, it would not appear desirable that he should join the Commission in any formal statement. Should such a statement be issued, however, the American Commissioner will be authorized to investigate the matter and if in his judgment any useful purpose can be served, he will unofficially seek an op-

⁵⁰ Dr. Walter Simons, Minister of Foreign Affairs, and Constantin Fehrenbach, Chancellor, members of German Cabinet of June 27, 1920.

portunity informally to advise the German Government against such activities.

Accept [etc.]

NORMAN H. DAVIS

862t.01/214 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 28, 1920—2 p.m.

1732. For General Allen.

The French Government, through its Ambassador here, has requested the United States to join in representations to German Commissioner in Rhineland as to danger of further provocative speeches in occupied territory by German ministers. For your confidential information, Department does not desire to join in official representations to German Rhineland Commission [*Commissioner*]. Reply has been made that since the United States is only unofficially represented on Rhineland Commission it should not join in official statements from the Commissioners but that the unofficial American representative would be authorized in his discretion to informally indicate to the German representative, if the joint representations are made as indicated, that "speeches such as those recently made by the German Minister are inadvisable, in his opinion, and are likely to lead to unfortunate complications and ought to be avoided." Should occasion arise, please take informal action consistent with above reply.

DAVIS

462.00 R 29/417 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, January 11, 1921—5 p.m.

28. Your 2013, December 15, 10 p.m.

For Boyden. Department's B-190.⁵¹ Your B-352.⁵²

One, your second. Armistice of November 11 prolonged by agreements of December 13, 1918, and January 16, 1919, and finally by agreement of February 16, 1919, for a period, "the date of expiry not being given". Department, after consulting War Department is aware of no subsequent armistice agreements affecting matter. For this Government's notice of continuation of armistice see Depart-

⁵¹ Not printed.

⁵² *Ante*, p. 338.

ment's 70⁵¹ and 71⁵² of January 9, and 95 of January 13,⁵¹ to Embassy, Paris, and Embassy's 110, January 12.⁵¹ Formal notice also sent German Government through Swiss Legation on January 13 that United States regards the armistice as continuing in full force and effect.

Second, your seventh. Department considers Rhineland agreement of June 28, entered into in pursuance of Article 432 as supplemental to treaty. This agreement submitted to the Senate prior to treaty coming into force as to other Powers on January 10, and has not been ratified. This Government, pending ratification of treaty and agreement, not bound thereby. Agreement cannot be considered an armistice agreement since it regulates occupation after conclusion of peace.

Third. Under armistice which is still in force as to United States, this Government clearly has right to collect costs of occupation direct from Germany. In certain eventualities it might become desirable to collect directly. Department, however, has interposed no objection to apparent desire of Reparation Commission to make collections on this Government's behalf.

Fourth. This Government cannot, of course, at this time, claim benefits of treaty as a ratifying Power. It has inchoate rights in assets of Germany disposed of under treaty, which cannot be defeated by other Powers. Furthermore, under Article 248, Germany agrees that cost of reparation and all other costs arising under the treaty—or "under arrangements concluded between Germany and the Allied and Associated Powers during the armistice or its extensions", shall be a first charge on all the assets and revenues of the German Empire or its constituent States. By Article 249, Germany agrees to pay total cost of "all armies of the Allied and Associated Governments in occupied territory from the date of the signature of the armistice of November 11". Article 251 provides that such cost, (a) during the armistice and its extensions, (b) after the coming into force of the treaty, shall have priority over other charges. This priority charge on her assets is a definite obligation on Germany, which is now bound by treaty, and cannot be denied by her or other principal Allied Powers also bound by the treaty. Since it covers costs of "all" Allied and Associated armies in occupation, it clearly applies to United States forces which were placed in occupation under the armistice and in pursuance of understanding with Principal Allied Powers. (In this connection see statement of Mr. White, November 24, 1919, H.D. 99 Annex F,⁵¹ that Allied Powers repeatedly requested United States Government to consent to use of American forces for purposes of occupation.)

⁵¹ Not printed.

⁵² *Foreign Relations*, 1919, vol. I, p. 32.

Therefore, irrespective of ratification of treaty by United States, this Government is entitled to benefits of this lien and priority for its occupation costs. This Government cannot admit that either Allied Governments or Reparation Commission can dispose of assets thus pledged without taking into consideration interests and rights of United States in respect thereto. Since Germany is definitely bound by lien created for the cost of all armies of occupation, and Powers ratifying the treaty are also bound to recognize this lien, no further agreement would seem to be necessary, and for foregoing reasons, Department does not consider that payment of American costs by Commission would be, as indicated in your paragraph fifth, a waiver of security and priority of other Powers.

Fifth. There apparently has been no disposition either on part of Reparation Commission or Allied Powers to question right of United States to participate in disposition of ex-German property under treaty. Indeed, it would appear from your B-194 of August 10, as well as from Allen's telegram referred to in Department's B-132 of October 1, that Reparation Commission expected to present claims for costs of occupation on behalf of United States. Also, when it was desired to extend scope of Reparation Commission to cover financial section of treaty, assent of United States was requested. (See Rathbone's R-437 of March 19 and Department's R-294 in reply.⁵³) Furthermore, United States has been given share of dyestuffs, aeronautic materials, et cetera, also offered share of German war vessels, and at recent conference at Washington preliminary to the future world conference on electrical communications,⁵⁴ at which disposition of German cables was considered by representatives of Italy, Japan, Great Britain, France and the United States, claim of United States to rights under the treaty, in common with principal Allied Powers, to German cables ceded under Annex 7 of Part 8, was recognized specifically.

Sixth. Unnecessary to accept Spa Agreement⁵⁵ to obtain priority of costs of occupation. This priority not only provided by treaty, but the agreement of the Committee of Four, approved by Council June 24, 1919, concerning certain priority to Belgium, expressly provides that such priority granted Belgium only "after the priority accorded by Art 235, in respect of the expenses of the Armies of Occupation and the payments for the supply of Germany". Department unaware of any basis for a claim by Belgium to priority over occupation costs.

DAVIS

⁵³ Not printed.

⁵⁴ See vol I, pñ. 107 ff.

⁵⁵ *Post*, 406.

862t.01/224: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

[Paraphrase]

PARIS, January 11, 1921—8 p.m.

[Received January 12—9:38 a.m.]

32. Your telegram no. 1732 of December 28. Following received from Allen:

Have received cable instructions through Paris for my guidance regarding speeches in occupied territory by German Cabinet ministers. On December 27 this matter came up for action at which time it was proposed that all representatives at High Commission should sign note to the Reichs Commissioner, Von Starck. Although believing that Cabinet ministers should obey High Commission ordinances, like all others coming into occupied territory, I declined to sign any letter. I suggested that the President of the High Commission sign alone and that was done.

WALLACE

UNOFFICIAL REPRESENTATION OF THE UNITED STATES ON THE REPARATION COMMISSION

462.00 R 29/1: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 11, 1920—9 p.m.

[Received January 12—2:47 a.m.]

105. R-206. For Department and Davis.⁵⁵

1st. Following minutes of Conference of American, British, French, Italian, and Belgian delegates Organization Committee, Reparation Commission, held January 9:

Loucheur, speaking [in] his own name and in that of the delegates of Great Britain, Italy and Belgium asked Mr. Rathbone⁵⁶ if hope must be abandoned of seeing the United States take its seat officially on the Reparation Commission before it had ratified the treaty.

Mr. Rathbone declared that he could not give a definite reply for the present. It was impossible for the American delegation to assist officially at the [*this*] date of [*in*] Commission's meetings but it was possible that before ratification took place or even if ratification did not take place the United States Government might authorize its official representation.

Monsieur Loucheur replied that in that case without discussing this point further given Mr. Rathbone's reply and speaking in the

⁵⁵ Norman H. Davis, Assistant Secretary, U. S. Treasury, from Nov. 1919 to June 1920; assumed duties as Under Secretary of State, June 15, 1920.

⁵⁶ Albert Rathbone, Assistant Secretary, U. S. Treasury, in Europe to handle matters relating to the Reparation Commission.

name of all his colleagues he extended through Mr. Rathbone to the American delegation an invitation to assist unofficially, although in the present circumstances it could not vote, at all meetings of the Commission, and to take part in all its discussions. Mr. Rathbone thanked Monsieur Loucheur and his colleagues for the invitation extended, declared that he was authorized to accept it and added that his country would certainly appreciate this courtesy.

Monsieur Loucheur expressed the hope that ratification of the treaty would soon permit the United States to be represented officially.

Mr. Rathbone replied that he was sure that the Government and the people shared this hope.

Rathbone
WALLACE

462.00 R 29/12 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 24, 1920—10 p.m.

[Received January 26—2:26 a.m.]

254. For Department and Davis.

R-246. Following summary of inaugural sitting Reparation Commission held at 3 to-day.

1st. In the presence of following delegates and assistant delegates; Bradbury and Levick, Great Britain; Jonnart and Mauclère, France; Bertolini and d'Amelio, Italy; Theunis and Bemelmans, Belgium, and Rathbone and Logan, United States, as invited guests, and only one secretary per delegation; French Premier Millerand made allocution, saluting delegates and expressing appreciation of magnitude of their task. Italian delegate responded, thanking Millerand for his presence. Verification of credentials followed, Rathbone stating United States had no official representation nor credentials; French delegate replying that American representatives were present by unanimous invitation of delegates.

2d. Millerand, American delegation, and secretaries having withdrawn, remaining delegates proceeded to elect Jonnart, French delegate, chairman of Commission and Bertolini, Italian delegate, vice chairman. Then French delegate and assistant delegate requested Rathbone and Logan to take their seats and participate in work of Commission and Rathbone accepted to do so unofficially.

3d. Commission approved project of provisional organization, and, on British proposal elected Salter general secretary; and, on French proposal Bergery, and, on Belgian proposal, Denis assistants to general secretary.

4th. Establishment committee appointed to deal with questions of personnel consisting of [National General Secretary] of each delegation, though delegates and assistant delegates retain right to be present.

5th. Standing orders and draft budget and notification of Commission's constitution to powers concerned and demand on Germany for first installment for Commission expenses also discussed, but no important decision reached. Rathbone.

WALLACE

462.00 R 29/127a : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, March 20, 1920—1 p.m.

568. For Rathbone from Davis. Treasury R-279.

1. Within a few days, Roland W. Boyden, a Boston attorney, will sail and after his arrival will relieve you of Reparation work as soon as you can transfer it to him. I am sorry it has not been possible sooner to make arrangements for some one to substitute for you. It was considered inadvisable for me to leave Washington until further developments make it possible for us to define our permanent relation to the situation in Paris.

2. It is contemplated that at least for the present Bayne will continue on the Committee of Jurists as unofficial American representative.

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POLK

462.00 R 29/145 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 1, 1920.

[Received April 1—6:45 p.m.]

875. R-487. For Secretary Treasury and Davis.

Boyden arrived safely. I am surrendering to him April 1 functions of American unofficial representative to Reparation Commission. Cables from him will be number B-1 upward and cables sent to him should be similarly numbered. I shall continue to use the R series for cables relating to Treasury matters and you should continue to use R series for Treasury cables to me. All cables received on and after April 1 relating to Reparation matters will be turned

over to Boyden. I am turning over to Boyden unexpended balance of funds transferred to me by Peace Conference. I propose to remain in Paris until week commencing April 12 so that Boyden can avail of my familiarity with past and pending matters to such extent as he may desire. I shall not attend any further meetings of Commission. . . . Rathbone.

WALLACE

462.00 R 29/202 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 5, 1920—noon.

[Received 9:15 p.m.]

1094. B-64 to Davis. Your 778 Treasury B-10 supplementing my B-16.⁵⁸

1st. After canvassing whole matter with Logan, have decided, for the present at least, not to go to Astoria if I can make arrangement with Commission by which they allow me amount equivalent to rent of space reserved for us at Astoria. They will probably be glad make this arrangement as other delegations at Astoria are crowded. Remaining outside peculiar and fits better with theory of unofficial representation though this not very important. Real reason is independent quarters relieve us of some work and of many time-consuming interruptions, inevitable if we were in the same building, also Logan's special work and organization cannot easily be transferred to Astoria and undesirable we should separate.

2d. Foregoing decision assumes that we are able to make arrangements with landlord here so that we assume no obligations except for space we occupy and are free to move after reasonable notice and that as rent does not substantially exceed rent allowance made by Commission, these conditions seem feasible.

3d. Certain Americans are direct employees of Commission and can not properly be regarded as part of our delegation. They would hold their jobs even if we should withdraw our unofficial representation. Their obligation is now direct to the Commission and not to us and we do not have to take their salaries into account though of course our relation to them is such that we can always utilize their knowledge and advice.

4. Theory of unofficial representation probably requires that certain Americans should not receive pay from Reparation Commission. My judgment is this restriction very limited. Should be confined to our voting representatives, myself, Logan, and Smith,⁵⁹ who is our

⁵⁸ Neither printed.

⁵⁹ Maj. C. H. Smith, American unofficial representative on the Austrian section of the Reparation Commission.

unofficial representative on Austrian Section. There is no reason why Reparation Commission should not be allowed to pay any other expenses so far as we can make arrangements with Commission to do so. Even though our status is unofficial we are actually helping Commission do its work, our help is well worth the money they will pay, and, in fact, will probably be on much lower basis than other delegations and the payment will not jeopardize in the least our unofficial status. I am going ahead now to make this arrangement with Commission probably on a lump sum basis, to be applied at our discretion subject of course to your vote [*veto*?].

5. Some items of expense will not be covered by foregoing arrangement but it should reduce our operating expenses very materially.

6. Under arrangement I propose certain men besides those mentioned paragraph 3d would be paid direct by Commission, for instance Bayne and Taylor if he comes. Probably expense allowances to men detailed by Army and Navy for service with us for example Rhea,⁵⁷ Winship⁵⁸ should be paid by us out of sum allowed us by Commission. These men receive their regular pay and are not allowed to receive anything more except these expense allowances. Foregoing does not include my personal expenses about which there is no hurry and which I will arrange direct with you later, also does not cover Logan's who has arranged otherwise.

7. Thanks for your promptness in arranging for my financial relief. On assumption foregoing is satisfactory to all parties, do not need more funds at moment.

My purpose this cable present a simple comprehensive scheme adaptable to future changes and correct in principle. This fits with Rathbone's ideas and I have now been here long enough to feel safe about it. Please advise promptly. Boyden.

WALLACE

462.00 R 29/221 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 29, 1920—6 p.m.

1044. For Boyden from Davis. Treasury B-40.

Reference your B-64, May 15 [5], Embassy's 1094 and B-98, May 25 [24], Embassy's 1191.⁵⁹

First: Scheme outlined your B-64 is approved with understanding that direct employment of Americans by Reparation Commission

⁵⁷ J. G. Rhea, general secretary of the American unofficial representation on the Reparation Commission.

⁵⁸ Blanton Winship, American unofficial representative on the Restitution and Reparation in Kind section of the Reparation Commission.

⁵⁹ Latter not printed.

and their compensation by that body is to be permitted only when the nature of the employment is such that the individuals report and are responsible to the Reparation Commission itself, and not to the unofficial representative of the United States.

Second: In view of change above authorized, should be glad to have immediately estimate of probable monthly expenses of your organization, including expenses and salary of unofficial representative of the United States and limited personnel directly responsible to him, as well as expense allowances of men detailed by the Army and Navy for duty with his organization. Itemize estimate and indicate when additional funds will be required from Department of State.

COLBY

162.00 R 29/255: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, July 1, 1920—11 a.m.

[Received July 2—2 a.m.]

1343. B-136. For Davis, reference B-40.

1st. Have, after considerable discussion of details, arranged finances as follows:

Commission perfectly willing cooperate in meeting our wishes but slight adjustment plan made to conform to organization scheme of Commission. Understanding perfectly clear and so expressed by members Commission when decision taken that all payments based solely on theory that Commission merely paying compensation for outside assistance rendered to Commission in its work. Delegation retains absolute unofficial character unchanged. Analogous principle is applied by Commission in other cases and not confined to us.

2d. We are still negotiating only for quarters actually occupied, but for present letting whole building with privilege terminating tenancy on one month's notice. Have arranged with Commission pay actual expenses rent, heat, light, janitor, etc., not exceeding 30,000 francs month. Our expense will vary but expected will average less than this amount.

3d. Inter Allied employees, as defined under Commission scheme organization, transferred to pay roll Commission. Have arranged with Commission for meeting expenses national employees whose work is connected with affairs of Commission by payment to me for which vouchers to be furnished.

4th. This leaves to be taken care of from the Department's funds only salary and expenses delegate; allowance to Major Smith, Army,

who is unofficial representative on Austrian Section, now \$15 day which I propose to raise to \$20 day in view of situation in Austria; Captain Madison, Navy, to whom we now make no allowance but who ought to have allowance of about \$10 a day; also few incidental expenses only considerable one being car care and repair, the gasoline, total these incidentals about \$1200 a month, liberal estimate. Total monthly expenses including increase to Smith and Madison, not including my own salary and expenses, about \$2500. Advise me on foregoing recommendations as to Smith and Madison.

5th. Logan, as previously explained, is taken care of otherwise. Have not kept actual account my own expenses monthly. Find have spent since arrival three months about \$3,500, should call accessories to living expenses and special entertainment, reasonable average about \$1,000 monthly, rise in valuation of francs makes amount more than inaccurate. I do not know what principle you want to follow on expenses and shall spend same amount, whatever your allowance. Consult Rathbone on this and decide whatever you like. I do not want to embarrass you and you cannot embarrass me.

6th. In last cable this subject B-64 ⁵⁰ I said Army and Navy men could not accept anything but expense allowances. This is correct principle but advised by Army expert that legal distinction is between salary and any allowance which is not strictly salary. Amount of allowance makes no legal difference, being wholly in the discretion of party making payment in the service of Reparation Commission. Commission has agreed to allowance to these men working in an international capacity as follows:

Per diem, 70 gold marks, percentage allowances also in accordance regular custom to other similar employees Commission. The total provided by Commission for these men is of course much less than paid by Commission to similar men from other delegations but as the Commission allowances result in their receiving in addition to Army and Navy salaries more than their present actual extra expenses thought perhaps I should call your attention to matter to make sure no objection. I see no objection and have no question as to fact, remuneration moderate and desirable from my own point of view.

7. Thought best not to go back of actual date origin of Commission but have accepted reimbursement our expenses on foregoing basis from January 10, 1920. This results in supplying me with funds which at about present rate will carry us into October, perhaps to November 1st. After this fund exhausted Department's expenses will, subject to future contingencies, be limited to amounts discussed paragraph 4 and 5 above. Boyden.

WALLACE

⁵⁰ *Ante*, p. 349.

462.00 R 29/255 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, July 8, 1920—11 a.m.

1219. B-63.

For Boyden from Davis. Reference your B-136, July 1st, Embassy's 1343.

1. Approve arrangement outlined your paragraphs 1, 2, and 3.

2. Approve your recommendations regarding expense allowances for Smith and Madison. Understand total monthly expenses your organization, exclusive your own salary and expenses, will be \$2500, and that Department in view your paragraph 7 will not be called upon to defray these until October 1st.

3. Effective July 1st State Department instead of Treasury Department will pay your salary at same figure. If agreeable to you and in lieu of actual expenses incurred, Department will allow you \$1,000 monthly for expenses, effective April 1st, 1920.

4. Department has no objection to continuing arrangement outlined your paragraph 6.

DAVIS

NEGOTIATIONS RELATING TO GERMAN REPARATIONS

Problems Arising under Articles 235 and 260 of the Treaty of Versailles—The Question of the Sale to the Netherlands of Ships Built in Germany—Relation of the Reparation Commission to the Conference of Ambassadors—Discussions Regarding Determination of the Amount of Germany's Liability—The Spa Conference—Attitude of the United States toward the Percentage Agreement and the Coal Protocol—Evaluation of German Ships Allocated to Great Britain—Proposed Conference at Geneva—Meeting of Technical Experts at Brussels; Decision of the United States not to be Represented

462.00 R 29/44½

The Unofficial Representative on the Reparation Commission (Rathbone) to the Assistant Secretary of the Treasury (Davis)

PARIS, 23 January, 1920.

DEAR DAVIS: The pouch goes tonight and I have only a moment. I am enclosing a copy of Bayne's opinion on Article 235 of the Treaty. It seems to me admirable. As you will gather, it is the only dissenting opinion. The majority opinion is indicated by the enclosed draft in French.⁶⁰ It is practically in its final form.

Confidentially I do not understand that the opinion of the British Delegate accords with the majority opinion on the proper construc-

⁶⁰ Not printed.

tion of Article 235. The British legal expert has told Bayne that, while his opinion is as indicated in the majority opinion, he thinks it would be extremely inadvisable to exercise the power as applied to Germany's neutral securities, and he shall so inform the British Delegation.

Bradbury has also told me informally that while America is making up its mind (within a comparatively short period, I assume) as to whether or not it will ratify the Treaty, against the unofficial objections of the American Delegation, he can assure me that there will be no unanimous decision of the other four Powers on this question, which requires a unanimous vote in order to make effective any interpretation of the Treaty.

Cordially yours,

ALBERT RATHBONE

[Enclosure]

Dissenting Opinion of the American Unofficial Representative on the Committee of Jurists (Bayne) Concerning the Powers of the Reparation Commission over the "Neutral Securities" of German Nationals

I dissent from the conclusion of my learned associates that the Reparations Commission is empowered, under Article 235, to demand the delivery of securities owned by German Nationals other than those which by the terms of the Treaty are specifically subjected to the burden of reparations and are required to be delivered to the Commission, namely their securities in public utility undertakings or concessions in Russia, China, etc., referred to in Article 260.

In interpreting the powers of the Commission over the private property of German Nationals I think that there should be applied the following rules:—

a) The Commission being a body empowered to exercise limited powers only, it should be held to possess such powers only as are by the Terms of the Treaty clearly conferred upon it.

b) Powers in derogation of the private property rights of German Nationals should be presumed not to be conferred unless the provisions of the Treaty which are claimed to confer them admit of no other reasonable interpretation.

c) With reference to such powers the rule of interpretation should be applied that the Treaty having been drawn by the Allies, should be interpreted against them.

d) The specification of certain private property as property which the Commission is empowered to demand the surrender of implies, generally, the exclusion from its control of other private property not specified.

Article 297 of the Treaty subjects all of the securities of German Nationals representing rights or interests situated in the territories of the Allied or Associated Powers to appropriation by those Powers for purposes including the payment of reparations. As the Allied and Associated Powers constituted a large part of the civilized world this article subjects to the burden of reparations (tho the Reparations Commission does not administer them) a very substantial portion of the foreign securities of German nationals.

Under Article 260 the Reparations Commission is given power to demand within one year, delivery of the securities of German Nationals representing rights or interest in public utility undertakings or concessions in Russia, China, [Turkey,] Austria, Hungary and Bulgaria.

If my interpretation of the Treaty be correct all other securities owned by German Nationals are left free from the direct powers of the Reparations Commission, tho it may well be that the German Government may find it necessary to expropriate some of them and offer them, under Part VIII, Annex II, Paragraph 19, in payment of its reparation obligations. According to my interpretation of the Treaty, this class of property was intended to be left to the German Nationals to enable them to secure the credits necessary to supply themselves with food and raw materials, and to maintain their economic life.

Among the securities of German Nationals falling within the latter category are those representing property or interests in neutral countries. For convenience of reference I shall refer to these as "neutral securities". As it is my understanding that the Reparations Commission desires to be advised immediately as to its powers under Article 235 relative to this class of securities of German Nationals, I shall direct my remarks mainly to that branch of the subject.

My associates are of the opinion that the provisions of Article 235 being transitory, and having for their special purpose the immediate restoration of the economic and industrial life of the Allied and Associated Powers, are to be read as conferring upon the Reparations Commission power to require the payment by Germany, before May 1, 1921, up to the equivalent of 20,000,000,000 gold marks, in any commodities, any ships, any securities and any other property of German Nationals, which the Commission may fix, without being limited to the classes and quantities of commodities, of ships, of securities or of other property specified in the Treaty as property which must be delivered to the Commission.

My associates concede that, according to this interpretation, the Commission might require the payment of the 20,000,000,000 gold marks in ships so as to require the delivery of all of the steam

trawlers and fishing boats, altho Annex III requires that one-quarter thereof, only, shall be delivered; or in commodities so as to require the delivery of machinery, tools, etc., or coal, or dyestuffs beyond the requirements of the categories of commodities referred to in Annexes IV and V; or in iron ore, or in steam engines, or in cloth, or in wheat or in wine, or in any commodity, or in any property whatsoever, or in domestic securities or in neutral securities of German nationals, altho none of the above classes of commodities or property or securities is specified in the Treaty as subject to the powers of the Commission.

1. According to my interpretation of Part VIII the powers relative to commodities, ships, securities and other property conferred by Article 235 upon the Reparations Commission relate to those commodities only, to those ships only, to those securities only, and to those other kinds of property only, which are by the terms of the Treaty specifically named as property to be surrendered to the Commission, and do not, therefore, include neutral securities belonging to German Nationals.

The scheme of reparations set forth in Part VIII enumerates with great particularity the kinds and quantities of private property to be surrendered to the Commission, as was proper in order that German property owners should know in advance and prepare themselves for the necessary sacrifices. That scheme did not, I believe, contemplate conferring upon the Commission power to disregard the limitations of the general scheme, during two years, by designating for surrender during that period 20,000,000,000 gold marks worth of private property which was not included in the categories of private property designated for that sacrifice. The possession of such a vast power by the Commission could render the limitations of the categories wholly illusory.

The terms of Annex II specify so clearly what classes of ships and what quantities thereof shall be surrendered to the Commission that I find it impossible to believe that it was intended by the term "ships" in Article 235 to empower the Commission to require the delivery of ships additional to those specified. Likewise the terms of Annexes IV, V and VI so carefully designate the classes and quantities of commodities as, for instance, machinery, tools, etc., (Annex IV, Par. 4), the quantities of coal and when it may be taken (Annex V, Par. 2), the character and quantities of dyestuffs and drugs (Annex VI, Par. 1), that I find it impossible to believe that the terms "commodities" as used in Article 235 of the same Part was intended to refer to any other commodities than those referred to in

the above annexes, nor to permit the Commission to demand quantities thereof in excess of the quantities specified.

If it be conceded that the expressions "ships" and "commodities" as used in the brackets of Article 235 refer not to all ships and to all commodities, but only to the classes and quantities of ships and of commodities which elsewhere in the Treaty are specifically described as devoted to the burden of reparations the ordinary rules of interpretation require that the expression "securities", as used in the same bracket, should be read in the same sense.

I conclude therefore, that Article 235 confers upon the Reparations Commission power to fix the manner of payment of the 20 billion gold marks, whether in gold, or in commodities, ships, securities, or otherwise, within the limits of the Articles specifying what commodities, what ships, what securities and what other property must be surrendered to the Commission for the purposes of reparation; and that, as the Treaty nowhere provided that neutral securities owned by German Nationals in Germany shall be applicable to reparations, the Reparations Commission has no power to compel their application to that purpose.

2. The provisions of Article 260 for the surrender within one year of certain German foreign holdings in China, Russia, etc., would be unnecessary, if Article 235 conferred upon the Reparations Commission the power to demand within two years the surrender of any or all property or interests of German Nationals in foreign countries, up to the value of 20,000,000,000 marks gold. The fact that the Allies specified that class of German foreign holdings as liable to surrender implies that they did not intend to subject to the powers of the Commission any other foreign holdings privately owned in Germany. This view finds confirmation in the facts set forth in Par. 4 of this memorandum.

4. That my foregoing interpretation of Article 235 is correct finds, I believe, conclusive support in the following clause contained in the Reply of the Allied and Associated Powers accompanying their letter dated June 16th, 1919, to the German observations on the conditions of Peace, especially the objections of the Germans on the financial clauses:

"Outside the Empire the Allied and Associated Powers have abstained from claiming the transfer of German property and interests in the neutral countries."

It seems that in a note of June 20 the German Peace Delegation pointed out that these concessions with respect to reparations were not embodied in the Treaty text as modified; that the answer of

the Reparations Commission, in response to the above objection (which was approved by the Council of Four), stated that no alteration had been made in the Treaty text because the concessions which had been made were within the scope of the provisions already laid down in the Treaty and related simply to the manner in which these provisions might be carried into effect. The Commission admitted that the Reply of the Allied and Associated Powers had binding force as interpretive of the articles on reparations.

(C.F. 76; Appendix II)

This formal and authoritative interpretation of the meaning of the Treaty by the framers, communicated to Germany as an inducement to obtain her signature to its terms, seems to me to settle its meaning, and would render it improper to contend that under Article 235 the Reparations Commission has power to compel the surrender of German interests in neutral countries.

My associates admit, I believe, the binding force of the foregoing clause of the Allies' reply, but deny that a requirement by the Commission under Article 235 that Germany pay the 20,000,000,000 marks in securities (belonging to it or to its nationals) of companies owning property or other interests in neutral countries would constitute the taking of "German property and interests in neutral countries". If I apprehend aright the distinction they seek to make it is that the transfer of property and interests, in the above clause, refers solely to property and interests directly owned by Germans and does not refer to shares or other securities of a corporation owning such property or interests.

I cannot admit that distinction. It seems to me to be highly technical, and not defensible even as a technical distinction. It would be a very narrow technical construction of the expression "German property in the neutral countries" to confine its meaning to property directly owned and to exclude from its meaning the indirect but substantially similar proprietorship which arises from the ownership of the shares of the corporation in which is vested the legal ownership. But if the expression "German property in neutral countries" does not include shares or securities representing interests in such property, certainly the expression "and interests" which follows the word "property" includes the interests represented by shares and securities. But I prefer to rest my argument on the broader ground that by the plain intendment of the clause in question it was the intention of the Allied and Associated Governments to assure Germany that the Treaty did not contemplate conferring upon the Reparations Commission power to demand the transfer of her property interests in neutral countries whether those property

interests consisted of property directly owned or of securities representing an interest in such property.

5. If the interpretation placed upon Article 235 by my learned associates were correct nevertheless the Commission should not demand the delivery of neutral securities or other property the right to demand which was conferred by that article only, until it was known that the other payments required to be made by Germany under the Treaty and which Germany was entitled to claim as a credit on account of her obligation under Article 235 to pay 20,000,000,000 marks before May 1, 1921, would not in fact aggregate that sum by that date; for if such payments equalled or exceeded that sum the Commission would not have power to demand payments in neutral securities or in other securities or property not deliverable under other articles of the Treaty. It does not seem that the credits referred to in Article 243 would constitute credits on account of the payment of the 20,000,000,000 marks referred to in Article 235; but it is clear that she would be entitled to credit thereon [for?] payments made on account of the expenses of the Armies of Occupation, and the expenses of the supplies of food and raw materials essential to enable Germany to meet her obligations for reparations, and the last clause of Article 236 providing that what she had done on account of the direct application of her economic resources to reparations as specified in Annexes III (Ships), IV (Commodities), V (Coal), and VI (Dyestuffs and Drugs), "shall be credited to her towards liquidation of obligations under the above Articles", implies that these payments in kind shall also be credited.

Until the amount of all of the foregoing credits had been determined the Reparation Commission could not with safety require the delivery of any substantial values in neutral securities or other securities which it had no right to demand except to make up the payment of 20,000,000,000 marks. As the expenses of the Armies of Occupation could not be ascertained before May 1, 1921, and as many of the other items of credit could not be practically computed for a long time, it is not perceived how the Commission could know at this time what amount of neutral securities (or other securities not deliverable except to make up any deficit in the 20,000,000,000 marks payment) it had the right under Article 235 to demand the delivery of.

6. In the course of the opinion of my learned associates their following remarks require comment:

At page 2, they say:

"In the first place nowhere is there found a stipulation specifying a payment in gold and paragraph 2 of Annex III concerning the delivery of certain ships stipulates that these ships must be delivered within two months of the coming into force of the Treaty.

It is not perceived how this stipulation can be reconciled with the provision of Article 235 that until 1921 the payment of the 20 milliards can be required to be made in ships."

In reply to the above I beg to remark that:

a) No special stipulation that a promise to pay a sum of money in gold seems to me requisite, when the currency of all of the contracting parties is based on a gold standard. But Annex II par. 12, (a) provides that "Whatever part of the full amount of the proved claims is not paid in gold, or in ships, securities and commodities or otherwise" shall be guaranteed by bonds, and these bonds are payable in gold.

b) All of the ships deliverable under Annex III are not required to be delivered within two months. Germany agrees, in Par. 5 of that Annex to build and deliver further ships, laying down in each year up to 200000 gross tons.

At page 3, they say:

"In the first place Article 236 and the Annexes applying its provisions, establish for Germany an obligation presented as perfectly distinct from the one contained in Article 235. The text says expressly that Germany "further agrees".

I think that the above argument attaches an unwarranted significance to the expression "further." The obligation directly to apply her economic resources is, in a sense, a further obligation additional to her obligation to pay the cost of the Armies, etc., provided by Article 235.

But it does not follow that the power to determine in what installments the 20 milliards shall be paid and whether in gold, ships, commodities, securities, etc., authorizes the exercise of that discretion on other ships, other commodities, other securities or other property than that specified in the Annexes as subject to delivery to the Commission.

HUGH A. BAYNE

[PARIS,] *January 20, 1920.*

763.72119/8953 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, *February 7, 1920—2 p.m.*

[Received February 8—4:40 p.m.]

404. R-299. For Department and Davis.⁶⁰

Referring to ships building in Germany for Holland. 1. Question of decision of the case of these vessels is to come before Reparations Commission shortly and it is urgent some conclusion be

⁶⁰ Norman H. Davis, Assistant Secretary, U. S. Treasury, Nov. 1919 to June 1920; assumed duties as Under Secretary of State, June 15, 1920.

reached. One vessel already delivered to Holland, some others nearing completion and will soon be ready for delivery. If Department has any views in the matter or arguments they wish to advance on the question request earliest possible advice. Rathbone.

WALLACE

763.72119/8953 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, February 14, 1920—4 p.m.

356. For Rathbone from Davis. Treasury R-227.

Your R-299, February 7.

1. It appears Germans and Dutch were informed by Clemenceau, when matter concerning sale of ships to Dutch was under discussion by Peace Conference, that sale could not be recognized and that Allied and Associated Powers must insist Germany carry out stipulations in paragraph 7, Annex III, Reparation clauses.

2. It is considered important that you do not join in any action at variance with view of this Government, which is not concurred in by French authorities, that *bona fide* transfers of belligerent merchant vessels to neutrals in time of war are valid. American interests are involved in maintenance of this principle.

3. Question of rights of nationals of Holland, which is not party to Treaty, is obviously a disagreeable one. If *bona fide* sale were made to Dutch, Germany could evidently by purchase procure title to vessels in German waters and could presumably acquire some kind of a title by requisition, so that it might perform obligations under paragraph 7. And irrespective of hardship on Dutch such obligations can, strictly speaking, be insisted upon without reference to principle of validity of transfer of vessels in time of war. However, it would seem impossible to employ either [of] these methods to obtain title to vessel delivered to Dutch, in case they would not sell it to Germany. Measures that may be indicated to Germany referred to in paragraph 7 must apparently be construed as possible measures.

4. Having in mind your peculiar position at this time, since United States is not party to the Treaty, the fact that other representatives will doubtless insist Germany must deliver vessels, the explicit language of paragraph 7 in the Treaty which American representatives signed, and the concurrence of our delegation in correspondence with Germans and Dutch, I think that only practicable course for you to pursue is to take no exception to action of other representatives, which doubtless will be an insistence on delivery of

vessels. You do not state in your telegram whether decision has been reached as to precise nature of course to be pursued. I further think it might also be desirable if you conveniently could make it clear that decision respecting action taken by Commission rested entirely with other representatives.

POLK

462.00 R 29/42 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, February 17, 1920—10 p.m.

[Received February 19—12:36 a.m.]

493. R-330 for Davis. Department's 356 February 14, 4 p.m., your R-227.

1st. Form of letter sent to Germans regarding Dutch ships set forth the [*in*] paragraph 3d my R-257⁶¹ was drafted on theory that Commission did not desire to finally prejudice question without first giving opportunity to Germany, Holland and alleged Dutch purchasers to be heard. This procedure was adopted largely on my argument that Reparation Commission should not make decisions until interested parties were heard. It was designed to maintain *statu[s] quo* until Commission could consider matter and give hearings to interested parties if they desired.

2. As stated in my R-299⁶² and in paragraph 11 of my R-309⁶¹ information having been received that one of ships had sailed and arrived at Dutch port, it was decided to summon German representative and ask for examination [*explanation*] of action of German Government in view of notification from Reparation Commission previously given. Again my advice on subject was followed instead of some action by Reparation Commission which would have amounted to a prejudgment in case without hearing of parties in interest.

3. Explanation given by representative of German Government was not very satisfactory. He did not know facts and intimated that German Government might have permitted sailing of the vessel in question before it had received notification from Reparation Commission or that vessel might have sailed secretly as in fact it had departed at night. He also claimed that if Germany prevented sailing of vessel it might be construed as an unfriendly act by Holland. He gave no assurance as to remaining four vessels but stated that he would communicate with German Government. At request

⁶¹ Not printed.

⁶² *Ante*, p. 360.

of German representative decision of Reparation Commission on subject was embodied in letter of which copy is set forth in paragraph 4 of this cable.

4. The Reparation Commission has the honor to confirm to the purpose [*Chairman*] of the German Delegation the statement made to Herr Bergmann at its meeting today. The Reparation Commission wish[es] to know under what conditions the vessel *Johann Heinrich Burchard* (*Limburgia*) put to sea, and in particular whether this vessel left without obtaining clearance papers. The statement [*Reparation Commission*] requests that the German Government will take all measures necessary to prevent the other four vessels mentioned in the letter of the 31st January 1920 from leaving their present ports. The vessel [*Reparation*] Commission requests, in particular, that the German Government will undertake not to give their clearance papers to the vessels in question and if these vessels should attempt to put to sea without papers to take the same measures to stop them which would ordinarily be taken in the case of vessels attempting to leave without their papers. If the German Government does not comply with these requests and in particular if pending the receipt of a reply to this letter, the German Government should permit clearance papers to be granted to any of the vessels in question or fail to take the necessary steps to prevent them sailing without papers, the Reparation Commission will find itself obliged to inform the Allied and Associated Powers that Germany is wilfully evading her obligations under the treaty of peace. As soon as the Reparation Commission is in possession of the assurance which it asks from the German Government it will take steps to settle, as soon as possible, the question of the ownership of these vessels after hearing all the parties concerned.

5th. I note view of United States that *bona fide* transfers of belligerent merchant vessels to neutrals in time of war are pending [*valid*] and will take care in due course that this view of America is maintained by unofficial representation to Reparation [*Commission*].

6th. Legal counsel are considering whether it is possible for Germany to obtain title by requisition to vessels remaining in Germany. Obviously such measures could not be adopted in case where vessels have reached Dutch ports.

7th. Referring to your paragraph fourth. One can of course make assertion to Commission that in view of fact America has not ratified treaty that it will take no part in discussion or decision regarding these vessels claimed to have been sold to Dutch nationals. The difficulty that I see in that course is that a similar course could be taken regarding most of the questions that come before Reparation Commission. It would, in my judgment, very much weaken

position of obligation to unofficial representative and do away with influence which has been exerted toward fair and just methods of procedure and sound economic principles. Moreover, if our participation is to be confined exclusively to matters in which America has the direct and not indirect interest, it will weaken our position as to questions in which we are directly interested. If functions of American representative are to be so limited in all cases his duties and responsibilities will be much reduced.

Rathbone
WALLACE

462.00 R 29/42: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, February 23, 1920—7 p.m.

397. For Rathbone from Davis. Treasury R-242.

Your R-330, February 17 regarding ships alleged to have been sold to Dutch subjects.

First: I concur in action taken by you in this matter and in views expressed in seventh paragraph your telegram as to your general attitude in this and other matters coming before Commission.

Second: I note your views regarding desirability that hearings should be accorded interested persons and entirely agree with them. Since such hearing was not granted when surrender of ships was previously insisted on by President of Peace Conference, I assumed, correctly it appears from your telegram, that Reparation Commission would take attitude similar to that of Conference and insist on execution terms of Treaty without discussion with Germans or Dutch. The Treaty having come into force, the position of Commission is stronger than was that of Conference prior to time Treaty became operative; at least is this true as regards vessels now within German jurisdiction. I therefore, for reasons stated in my R-227,⁶² considered it desirable you acquiesce in what I anticipated would be action of the Commission irrespective of hardship on purchasers who may have bought in good faith. Suggestions in fourth paragraph my 227 were prompted largely by my conjecture as to what attitude other members of Commission would be, which is confirmed by your telegram under acknowledgment. Your conduct generally in this matter is left to your discretion in light of suggestions made heretofore.

POLK

⁶² *Ante*, p. 361.

462.00 R 29/45 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 2, 1920—7 p.m.

453. For Rathbone from Davis. Treasury R-253

Your letter of January 23 enclosing copy of Bayne's opinion regarding Article 235 of the Treaty with Germany.

First: I thoroughly agree with fundamental principle of the opinion as to limited scope of Article 235, and consider that opinion is grounded on a construction warranted by language of the Treaty and on sound policy.

Second: I note emphasis put upon assurance mentioned in Part 4 of opinion that transfer of interests in foreign countries would not be required. I consider that Bayne is correct in attaching much importance to this point, which it seems might be still further stressed.

Third: While a government in the exercise of the right of eminent domain may take all kinds of property, the right can be exercised only within the jurisdictional limits of a state. Majority opinion evidently contemplates that Germany may be compelled to obtain possession of securities that may be on deposit in neutral countries. Notwithstanding the general rule that personal property is subject to the law which governs the owner, Germany apparently could not take such action by the usual methods employed in the exercise of the right of eminent domain. Penal provisions to compel the owner to produce securities and to carry out any necessary formalities to transfer them would be necessary, whether they were without or within German jurisdiction. Construction put upon Article 235 by legal representatives other countries contemplates compelling Germany to take action having the effect of expropriating property outside its domains and of extending its jurisdiction into other countries in some respects, so as to affect matters relating to any formalities that might be required under local laws in connection with transfer of securities in concerns incorporated in such countries. It is hardly to be supposed that the assurance given by the Allied and Associated Powers related to real property outside of Germany and subject to the laws of other countries. Germany cannot expropriate such property. At most it could only compel through penal enactments the execution of instruments of transfer. If the assurance was not a meaningless one carelessly given—and considering the conditions under which it was made this should not be supposed to be the case—it must be construed as relating to transfer of personal property including securities.

Fourth: The taking possession of neutral securities involves some disagreeable aspects apart from those briefly indicated above. It appears undesirable to set a precedent relating to acquisition by certain governments of the ownership of securities of concerns incorporated in other countries.

Fifth: I am not clear whether in Bayne's opinion securities he designates as "neutral securities" include securities which may be issued in Germany by German corporations and which represent property situated in other countries. However, arguments outlined above would seem applicable in substance to case of an attempt to obtain control of properties in a neutral country through acquisition of securities of a German corporation owning such properties.

Sixth: It is reasonable to assume that Peace Conference in the framing of treaty stipulations and of reply to German delegates should have had in mind considerations such as those above indicated.

POLK

462.00 R 29/97: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 2, 1920—8 p.m.

[Received March 3—9:32 p.m.]

613. R-382. For Davis. Supplementing my R-371.⁶⁸

1st. Following letter agreed upon at meeting of Reparation Commission March 1:

"[I.] The Reparation Commission reminds Germany that under the terms of article 235 of the treaty, she shall pay during 1919, 1920 and the first four months of 1921 in such installments and in such a manner as shall be fixed (whether in gold, commodities, securities, ships or otherwise) the equivalent of 20 milliards of gold marks to be reckoned in the total of her debt. Out of this sum the expenses of the armies of occupation shall first be met and such supplies of food and raw material as may be judged to be essential to enable Germany to meet her obligations for reparation, may also be paid for out of the above sum. In order to allow of the execution of the provisions of this article including the last named payment, the Commission is of opinion that it is essential that use be made of all securities except those covered by articles of the treaty other than article 235, which are in the possession of the German Government, of German states and of German nationals, and which represent interests in undertakings situated in neutral countries. These securities form, indeed, those resources

⁶⁸ Not printed.

which will best enable Germany to procure such food and raw materials as are essential to permit her to meet her obligations. The Reparation Commission therefore notifies Germany that it will not consent to any payment, out of the 20 milliards of gold marks, of [*for*] the supplies of food and raw materials as approved [*provided*] in article 235, except on condition that the German Government immediately takes all measures necessary to acquire all securities of the kind described above, and in possession of its nationals, and applies them to the purchase of such indispensable supplies of food and raw materials. The Reparation Commission would not consent to consider the question of whether it is possible to apply other German resources to the purchase of such supplies of food and raw materials as are indispensable to enable Germany to meet her obligations for reparation, unless it has been proved to the Reparation Commission that such measures have been effectively taken, and that this method of providing for the purchase of indispensable supplies of food and raw materials, together with the measures provided for by the armistice conventions, have proved to be insufficient. The Reparation Commission therefore calls upon the German Government immediately to take all measures necessary to acquire all securities of the kind described above and in possession of its nationals, and especially to enact such legislation as may be necessary to prevent any alienation of these securities by their owners. The Commission makes no objection to the German Government using these securities for the purchase of essential supplies of food and raw materials. The Commission also calls upon the German Government:

(1) To inform it as soon as possible (*a*) of the enactments of the above laws; (*b*) of the measures taken to render such laws effective and to ensure their strict application.

(2) To transmit from time to time the lists of securities thus acquired by the German Government. The detailed lists containing a complete description of all securities which the German Government proposes to avail [*itself*] of, for the purpose of obtaining essential food and raw materials, must be filed with the Reparation Commission, and the securities therein set forth, must be intact until the German Government is notified by Reparation Commission that no claim is made in respect of such securities under article 238 [*or*] other clauses of the treaty of peace.

(3) To inform it from time to time of the proceeds resulting from the sale of such securities.

(4) To keep it informed of the particulars of the purchase of such supplies of food and raw materials acquired through the use of such resources.

II. The Reparation Commission makes no objection to the disposition by the German Government of the securities described above and which are now owned by it or by the German states, and which are therefore covered by article 248 for the purchase of food and raw materials essential to enable Germany to meet her obligations for reparation. Further, there is no objection to the German Government continuing to apply to such purchases the foreign securities

previously requisitioned by it under the terms of the armistice conventions.

III. In general the conditions imposed by the Committee on Organization of the Reparation Commission upon the sale of the securities previously possessed or requisitioned by the German Government for the same object, remain in force. The Commission confirms the request already made to the German Government to transmit to it at regular intervals the information called for above under sub-paragraphs numbers 2, 3, and 4 of paragraph I in regard to securities treated in paragraph II. It is self evident that this letter leaves intact all obligations undertaken by Germany under other articles of the treaty including article[s] 260 and 297."

2d. You will perceive that this letter is a substantial acceptance of American position regarding German owned neutral securities. Question of German owned securities representing interest in German enterprises and property and commodities in Germany remaining to be discussed and policy of Reparation Commission in regard thereto determined at some future time. Rathbone.

WALLACE

462.00 R 29/97 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 15, 1920—6 p.m.

534. For Rathbone from Department and Davis. Treasury R-272.

Reference your R-382, March 2, regarding interpretation of Treaty.

We appreciate fully under what difficulties you have labored in dealing with this question and that the proposed communication to the Germans quoted in your telegram is a concession to your views. It appears to us however that the procedure indicated may force Germany by questionable expedients to take certain serious and far-reaching measures which according to our view are not required of her by either the letter or the spirit of the Treaty. Even assuming that the Commission would be within its rights in imposing such conditions, it would not in our judgment be good policy from the standpoint of obtaining from Germany the greatest amount of reparation. Germany has already disposed of a large amount of her saleable foreign assets and if she now has to dispose under forced sales of the balance of her neutral holdings in order to get food and raw materials, of which she is in urgent need, she cannot possibly make advantageous sales which would be possible under an orderly process with ample time and facilities for negotiating with competitive purchasers. We fear that the prime objective is to force Ger-

many to sell certain holdings in neutral countries, of which certain powers are most covetous, rather than a recognition of the necessity and desirability of providing Germany with food and raw materials. There is certainly an implied, if not a definite, obligation even dating from the Armistice to facilitate the obtaining by Germany of food and raw materials. We do not think it is good policy or within the powers of the Reparation Commission to tell Germany now that she cannot obtain what she is entitled to under the Treaty unless she does something else, which in our opinion she is not obligated to do under the Treaty.

The Department has received a communication from a prominent Senator stating he had been informed that an attempt was being made by the Allies to obtain certain German property in South America by an undue interpretation of Article 235. As you have been informed we are entirely in agreement with the dissenting opinion rendered by Mr. Bayne in respect to the interpretation of this article. This Government is unalterably opposed to any other interpretation of that article and to any procedure in violation thereof. A broader interpretation is regrettable as it amounts in effect to an additional indirect violation of private property. This Government feels that once the broader interpretation of Article 235 is admitted though applied only at present to private German securities in neutral countries a dangerous precedent will be established which may be utilized on one excuse or another to interfere with privately owned German commodities or foreign credits. The assumption and use of such general powers might give rise to serious political complications in Germany; would be prejudicial to general economic reconstruction and offers an opportunity to the governments dominating the Reparation Commission indirectly to exercise a dangerous controlling influence on private trade with Germany. Since by the terms of the treaty the influence and power of a large part of the civilized world may be concentrated behind decisions of the Reparation Commission the broader interpretation of Article 235 besides being in our opinion indefensible on terms of the treaty and letter to German Commissioners, contains a possible menace to American trade interests if the treaty is not ratified and the United States is not entitled to its veto power on the Reparation Commission. The strongest protest possible should therefore be made against the majority construction of Article 235. A reasonable accomplishment of the result desired by your compromise plan may be established by means other than reliance on powers based on broader construction of Article 235. The Department will if you consider it necessary or advisable address a separate note to the respective Governments defining its position.

We are equally opposed to any construction of the treaty which will not allow ships and other property ceded by Germany to be credited against the twenty billion mark initial payment. We will cable you more fully on this point.

POLK

462.00 R 29/107: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 18, 1920—4 p.m.

552. For Rathbone from Davis. Treasury R-278.

First: Referring to Bayne's letter of February 20⁶⁴ enclosing copy of his opinion dissenting from the opinion of the majority of the jurists reporting to Reparation Commission who hold that the value of deliveries under Annexes III, IV, V, VI and VII of part VIII of Treaty *must not* be credited on account of the 20 milliards of marks payable under Article 235, we fully agree with opinion of Bayne that the value of such deliveries must be credited on account of the 20 milliards of marks. It is impossible to ignore Article 236 which so clearly sustains our opinion. There is no justification for disregarding the letter of provisions which, as Mr. Bayne points out, it is practicable to execute. The opinion of the majority of the jurists appears to contain no convincing argument that the express terms of Article 236 do not represent the intention of the framers of the Treaty. As the position taken by Bayne is so clearly in accord with justice and also with the Treaty provisions, we cannot account for the contrary position taken by the Allies unless they desire to force the German Government to take over and deliver to the Allies all of the remaining investments and properties of German nationals in neutral countries, and thus indirectly obtain the same results as would the interpretation which the majority have insisted upon giving to Article 235 with a view to such action.

Second: I recall very distinctly the various discussions regarding Article 235 and that at one time when practically every one held the opinion that Germany could not meet such instalment even after crediting the value of ships, etc., delivered under Annexes III, IV, V, VI and VII, the advisability of reducing this amount to at least 10 milliards of marks was seriously considered. Finally, instead of reducing the amount, the Article was redrafted, stipulating that the expenses of the Armies of Occupation and also the food and

⁶⁴ Letter not printed; text of Mr. Bayne's dissenting opinion is printed on p. 354.

raw materials imported by Germany with the approval of the Commission should be deducted therefrom. Realizing the probable inability of Germany to meet her obligation under Article 235, even after all of the deductions contemplated, it was also provided in paragraph 12, C-1, Annex II that such amount of the 20 milliards as had not been liquidated by May 1, 1921, shall be exchanged for long-time bonds.

Third: It is my clear recollection that at all the meetings at which the drafting of Article 235 was under consideration, it was always contemplated that the value of ships and commodities which Germany should deliver for purposes of restoration and otherwise should be credited against the initial payment of 20 billion gold marks. I find my recollection confirmed specifically on page 8 of Mr. Dulles' "Record of Informal and Confidential Memoranda and Conferences Dealing with Reparation Clauses"⁶⁵ where he records that on account of the sum of 20,000,000,000 marks there shall be handed over to the Reparation Commission the enemy mercantile marine, enemy gold, and property and rights of enemy nationals situated outside of Germany. We subsequently succeeded in getting the Allies to forego the taking of enemy gold and likewise secured, as we understood, their agreement to forego the taking of property and rights of enemy nationals except as specified in Article 260. This understanding is not sustained however in the recent opinion rendered by the majority of jurists interpreting Article 235 in a way to permit the taking of these properties in violation of the understandings expressed by the President and Lloyd George in the meeting of the Heads of State on April 23, 1919, and later confirmed in the note to the Germans.

Fourth: The position which the Allies are taking in respect to Article 235 and the values to be credited against the twenty milliards of marks is in my opinion and the opinion of the Department and [of] State most unreasonable and inexpedient and we therefore suggest that you formally advise them of our views and position.

POLK

462 00 R 29/119 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 18, 1920—8 p.m.

[Received March 19—11:30 p.m.]

750. R-432 to Secretary of the Treasury and Davis. Department's 534, March 15, 6 p.m., your R-272.

⁶⁵ Not printed.

1st. Form of letter to Germany set forth my R-382⁶³ was sent them on March 4th.

2d. German reply to said letter is dated March 8th [and] reads as follows:

"I have the honor to confirm receipt of the letter of the Reparation Commission of March 4th CR-751 by which the German Government is requested to call up all securities owned by German nationals which represent interests in enterprises situated in neutral countries for the purpose of providing funds out of the proceeds of such securities and similar securities owned by the German Government and [the] German states for the supply of food and raw materials in accordance with article 235 of the peace treaty. I have informed my Government accordingly but should like to point out forthwith that the results of carrying out that measure will be extremely disappointing for all who expect that it may contribute essentially to solution of the problem how to provide means for supplying Germany with food and raw materials. The experience gained by the efforts of the German Emperor [*Government*] to sell the German owned foreign securities called up in March 1919 under the Brussels agreement⁶⁴ has shown unmistakably that the idea of financing in that manner immediate and important needs of food and raw materials is to be considered as a failure even in the instance of the Brussels agreement, when Germany had the choice to select the very best foreign securities still owned by German nationals. What now remains of German investment in so-called neutral securities is represented by thousands of divers small parcels which in the aggregate do not reach a very high figure and the collection of which will necessarily be very difficult, slow and expensive. There is to be taken into account that the German Government has not the actual power to reach the greater [part] of those securities which is deposited outside of Germany, but the same is unfortunately true of many securities hidden away within the country. The selling of the securities if and when collected is still another and even more difficult matter. The German Government will, of course, do everything in its power to meet the demands of the Reparation Commission, also as regards the proposed measure if the Commission should insist in having it carried out. On the other hand I think it necessary to submit to the Reparation Commission detailed information about the specific conditions prevailing in Germany and the experiences that have been made by the similar measure adopted under the Brussels Agreement. It might be useful to have the matter investigated by a special finance committee of the Reparation Commission to which I should be glad to convey any information desired."

3d. At meeting of Reparation Commission March 17th after French had, with some support from Italians and British, advocated reply insisting that Germany without explanations should put into immediate effect measures set forth in note of March 4th, it was decided to reply to German note that without changing position set

⁶³ *Ante*, p. 366.

⁶⁴ Not printed.

forth in March 4th note, discussion of matter by Germans with finance section was approved.

4. As result of these discussions I trust it will be possible to work out some practicable plan which will avoid dangers pointed out in your cable. I entirely agree that it will be found that German nationals have disposed of most of their neutral securities that could be requisitioned. Believe too it will be possible to prevent Germany being compelled to make forced sales of neutral holdings at insufficient prices or to turn over her South Pacific investments to Allied Governments. While no doubt true that certain powers or a certain power anxious to obtain certain neutral securities of Germany, prime aim of others or another is desired to obtain payments, and endeavor to maintain attitude of victors and ban public speeches [*sic*] very possibly a wish to cripple Germany economically and perhaps to make treaty impossible of performance.

5. Letter of March 4 to Germans goes further than did Allied and Associated Powers by Brussels convention which compelled Germany to resort to gold and neutral securities to obtain food and it follows course you suggested regarding securities already requisitioned by Germany from its nationals.

6th. The threat in note to Germans not to consent to deductions of payments under 235 unless neutral securities are used to purchase food and raw materials is not in my judgment of great practical importance. If situation in Germany becomes sufficiently desperate necessity of permitting Germany to use its resources for food purchases will have to be recognized.

7th. I assume it was thought when article 235 was drafted that by May 9th 1931 [1921] Germany would have accumulated foreign exchange sufficient to deduct therefrom costs of armies of occupation essential food and raw materials and with balance to pay some reparations in addition to deliveries in kind provided for by annexes. I fear that Germany would not have accumulated by date mentioned sufficient foreign exchange to pay costs of armies of occupation and of essential food and raw materials. If this is so we could hardly press objection to having neutral securities applied to purchases of food and raw materials if sufficient in amount to justify their requisition though in our opinion in long run Germany's capacity to pay would be increased by permitting retention of its neutral securities. I do not suppose America desires to be called upon to make loans to Germany to provide for its food and raw materials. It seems reasonably sure and from confidential statements made to me by British and Belgian delegates I understand that to be their opinion, that including values of deliveries under annexes Germany will not be able to provide the fixed sum of 20,000,000,000 marks when that debt matures under article 235.

8th. You will note that German note quoted in paragraph second does not raise point that Reparation Commission has not authority to require Germany to use neutral securities for food purchases. If Germany is prepared to agree to use of her nationals' neutral securities for acquisition food and raw materials do not see that we need object.

9th. You understand that four Powers officially on Reparations [Commission] agree on conclusion of majority opinion regarding right to demand neutral securities and specific commodities under article 235. Bradbury⁶³ has told me he has instructions from his Government to support that view but he presumes I will be able block its being carried out. Keynes⁶⁴ has just told me that it was intention of framers of treaty to confer power to demand neutral securities of German nationals under article 235 for purpose of first twenty billion mark payment. If we do not ratify and if we withdraw our unofficial representation it is most probable that authority under article 235 in the respect mentioned that majority of lawyers say Commission possesses will be exercised by it.

10th. Believe agreement reached on our original letter to Germans has in fact increased our influence with Reparation Commission and will eventually prove to be more helpful in enabling treaty to be worked along practical and sound economic lines than if we had absolutely refused to consent to letter which calls upon Germany to use neutral securities for its food [and] raw material requirements. You appreciate that situation is not easy when four votes are against you and none in your favor. You will recall certainly America made concessions in framing treaty and undoubtedly will have to make some concessions in carrying it out.

11th. I am of course prepared to take any position on this matter before Reparation Commission that you desire. It is unfortunate that your views on proposed compromise, embodied in my R-362⁶⁵ of February 26, were not communicated to me earlier than your R-272 of March 15th. I have stated to Commission that my Government did not approve of letter sent to Germany as to which I had previously agreed. You will understand from foregoing that Reparation Commission will not withdraw letter nor will it now accept [Bayne's] construction of article 235. Would like promptly definite instructions as to just what you wish me to do.

12th. Bradbury tells me he has received instructions from his Government to take position that deliveries under annexes must be credited to payment provided under article 235.

⁶³ Sir John Bradbury, British representative on the Reparation Commission.

⁶⁴ John M. Keynes, principal representative of the British Treasury at the Paris Peace Conference.

⁶⁵ Not printed; see telegram no. 613, Mar. 2, from the Ambassador in France, p. 366.

13. Inclined to opinion that it would be well to have Department address separate notes to various governments as suggested. Please cable when done with text of notes. Rathbone.

WALLACE

462.00 R 29/123 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 20, 1920—7 p.m.

[Received March 21—1:39 a.m.]

767. R-439 for Davis. Supplementing my R-432.⁶⁶

1st. Bayne and I were of opinion when letter of March 4 was sent to Germans that Reparation Commission had authority transmit that letter. We are still of that opinion.

2d. The relevant phrase in article 235 provides in effect that such supplies of food and raw materials as may be judged essential to enable Germany to meet her obligations for reparations may also with approval be paid for out of twenty billion mark payment. This cannot mean that Germany may reduce the payment provided for by the total cost of all essential food and raw materials used by Germany up to the specified date whether acquired without or within boundaries of Germany. It was intended at most that cost of but not sanctioned [*sic*] essential food and raw materials would be so deducted because approval is provided for. Obviously no approval would be given to deduction of cost of food and raw materials originating in Germany because cost would be provided in paper marks in ordinary business operation and German Government would provide same in any purchases from its nationals deemed by it to be necessary. It follows that approval need not be given for deductions if Germany has other assets applicable to purchases. Assume value of deliveries under annexes ten billion marks and that German Government had twenty billion marks foreign exchange in hand. If cost of requisite food and raw materials which had to be imported, say five billion marks, do not believe Reparation Commission required to deduct that sum from payment due May 1921, in other words Reparation Commission has authority to require Germany to avail of assets in its possession or that it can obtain to purchase food and raw materials. If after having availed of such assets for that purpose Germany cannot make payment in addition specified in article 235, then the further question arise[s] as to whether amount of payment required will be reduced by value of such approved essential food and raw materials purchases; this

⁶⁶ *Ante*, p. 371.

latter question do not understand to be prejudiced by letter of March 4th, paragraph third. Foregoing deals solely with legal aspect. On policy I agree with your views but delegates to Reparation [Commission] apparently refuse to agree with us on that aspect of question of policy. Rathbone.

WALLACE

462.00 R 29/124 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 20, 1920—8 p.m.

[Received March 21—12 a.m.]

769. R-441 for Davis. Department's 552, March 18, 4 p.m., your R-278.

Fully agree with your interpretation of article 235. You must fully understand that by written memorandum, by formal oral statements and argument, and informal statements to Reparation Commission and to delegates I have constantly, in season and out of season, set forth our view as to such interpretation and have made so many arguments on the subject, in my opinion unanswerable, and which have not been answered, that there is no doubt (a) that our position is thoroughly understood and (b) there is no use, through Reparation Commission, of making any other theoretical arguments on the subject. Rathbone.

WALLACE

462.00 R 29/126 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 22, 1920—noon.

[Received 3:35 p.m.]

779. R-446 for Davis.

1st. Council of Ambassadors at meeting March 18 decided to notify Allied Military Committee of Versailles, naval experts and Reparation Commission to draw up complete list of violations of the Treaty of Versailles and to communicate same to Conference of Ambassadors.

2d. So far as Reparation Commission is concerned this raises important questions—as to which I should have your immediate advice. You will appreciate that in matters of this character it is not possible to ask for delay when immediate action may be necessary.

3d. Should Reparation Commission recognize Conference of

Ambassadors as proper body to which report should be made? I have heretofore objected to reports from Reparation Commission to Supreme Council or Conference of Ambassadors on theory that (a) these bodies were not provided for in treaty and (b) United States was not officially represented on these bodies. Moreover section 17 of annex 2 provides for notices to interested powers from Reparation Commission direct.

4th. It may be urged that Germany has made default under reimbursed [*reparation*] clauses of treaty because of its failure to perform certain obligations within time limit; for example German Government has not in accordance with paragraph 2, annex 3, within two months of coming into force of present treaty, delivered all ships to Reparation Commission provided for in paragraph 1 of said annex. On the other hand in note of March 9th to Reparation Commission, marine service of Commission which is dealing with German[y] in regard to ship deliveries stated that up to the present time German Government has given evidence of good faith in carrying out provisions of annex 3 of treaty. Rathbone.

WALLACE

462.00 R 29/131 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

[Paraphrase]

PARIS, *March 25, 1920—11 p.m.*

[Received March 26—7:40 a.m.]

815. R-455 for Davis.

1. The Reparation Commission has discussed the procedure to be adopted under article 260 at various meetings. In accordance with your opinion with which I agree entirely, I have advocated taking no action under article 260 until lists were obtained from the principal governments concerned regarding rights to concessions which they wished to acquire and then to confine the demand to rights and interests set forth in these lists. Commission, however, was unwilling to adopt this procedure.

2. Reparation Commission first decided to warn Germany not to dispose of rights and interests covered by article 260 until Commission had acted thereon. See sixth paragraph of my R-362.⁶⁶ At meeting of March 22, form of letter was presented. General policy to be adopted was to request the principal governments concerned to furnish within 30 days lists of rights and interests they desired to acquire but meanwhile to call upon Germany to prevent aliena-

⁶⁶ Not printed.

tion of such rights and interests and to take measures and pass laws necessary to prevent such alienation by German nationals; revised form of communications to be submitted March 24 to Commission. I made strongest possible reserve to this procedure.

3. It was agreed at meeting of March 24 to adopt following procedure if I would consent for the United States: (a) Communications to be sent to the Governments of United States, France, Great Britain, Italy, Japan and Belgium requesting these Governments to furnish by May 1 lists of interests and rights covered by article 260 which they wished to acquire; (b) in the meantime to communicate with Germany substantially as set forth in this cable, paragraph 5.

4. The question was left open as to how rights and interests listed by the above-mentioned Governments would be disposed of. It was recognized that the question was left open to Reparation Commission to decide later if it so determined that any specific right and interest listed by any government might be sold to another, whether mentioned in paragraph 3 or not, or even at a public auction. It was recognized also that the Governments from which lists were to be asked might ask more time to furnish the lists, even approximating the period mentioned in article 260, or might desire to examine the list furnished by Germany before submitting final lists. Procedure of the Commission in these contingencies left open.

5. The German Government is requested to furnish the Reparation Commission as soon as possible with the list of rights and interests mentioned in article 260 of the Treaty of Versailles in order to enable the Commission without unnecessary delay to exercise the option it holds under said article. It is in the German Government's interest to enable the Reparation Commission to arrive at a decision as soon as possible on this subject, since, until the option has been renounced or exercised, the German Government or its nationals are not in a position to directly or indirectly alienate or to mortgage or pledge the above-mentioned interests and rights in favor of foreigners nor to take any measures regarding them except those concerned with administration. The Reparation Commission, as soon as possible after receiving the list, will take steps to notify the German Government of the interests or rights, cession of which it is decided not to demand.

6. Delegations represented on Reparation Commission stated that if I reserved approval of communication to Germany in form set forth above that it should be changed so as to demand that Germany immediately take measures in accord with their previous decision to prevent alienation by their nationals of rights and interests. Upon my request they delayed final approval of form of communication to Germany in order that I might receive instructions.

7. I recommend we agree to indicated procedure. I do not think notice to Germany substantially as given in paragraph 5 will cause any harm and believe our concession in agreeing to such communication being sent is more than compensated by demanding the form of procedure indicated above, thus preventing an immediate demand on Germany which, if complied with, would necessitate the creation of complicated machinery to prevent the alienation by nationals of the interests and rights in question.

8. Also important in order to preserve our influence and prestige on the Commission to make such concessions as are possible without surrendering the principles for which we stand. Delegates now very reluctant to cooperate on American reserve, however whenever Commission takes action over our reserve it is easier for the Commission to as in this case. The first move to approach our views was made by French Delegation, Poincaré stating he had drafted a letter omitting stipulation that Germany must take measures to prevent alienation of interests and rights by German nationals in order to conform to the views I had intended to reserve. Said provisions in any case might as well be included as all the delegates favored it. Since Commission formally organized this is, I believe, the first time French Delegation has seemed disposed to modify their stand to meet our views, unless it was already indicated that other delegates backed us.

9. Aside from the conflict between articles 260 and 297 so far as China is concerned, I see but one question of interpretation of the treaty involved which is avoided in the form of note to Germany above set forth: Are the rights and concessions in article 260, those owned by German nationals and Germany (a) at date of signature of the treaty, (b) at date of ratification, (c) at date of demand? Please give your interpretation. Legal service unanimously of opinion that (b) is proper interpretation.

10. It is very important that I receive an immediate reply to this cable. Advise later whether United States desires to submit a list of rights and interests covered by article 260 which it wishes to acquire and if so the specific rights and interests to be included in the list. Rathbone.

WALLACE

462.00 R 29/126 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, March 26, 1920—4 p.m.

617. For Rathbone from Department and Davis. R-295.

Your R-446, March 22, noon. It is believed that you should maintain your former position that the conference of Ambassadors

cannot properly demand a report from the Reparation Commission for the reasons stated in your third paragraph. However, reserving all rights of the Reparation Commission we see no objection, if you approve, to transmitting the information asked for as a matter of courtesy.

COLBY

462.00 R 29/131 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, *March 31, 1920—8 p.m.*

652. For Rathbone from Davis. Treasury R-305.

Your R-455 March 25 regarding Article 260.

First: In view of express terms of this article, the attitude of representatives of other governments on Commission and the considerations referred to in paragraph 8 your telegram, we approve of your assenting, in accordance with your recommendation, to procedure outlined in paragraphs 3 to 5 inclusive.

Second: With reference to substance paragraphs 3 and 4 relating to lists of properties to be submitted by six Powers and the subsequent disposition of properties that may be taken, we deem it desirable you should at earliest opportunity appropriately make known our views with regard to such disposition which are briefly stated as follows: Article 260 provides for transfer of these properties for purposes of reparation to the Reparation Commission as the joint agency of all interested nations. No single nation is therefore entitled to obtain peculiar advantages from such property. If property of character in question is taken over action should be taken looking to disposition of it so that the greatest possible amount of proceeds may be realized for application to reparation. This could probably best be accomplished through open sales to highest bidder.

Three: If China were a party to Treaty and desired to exercise rights granted under Article 297, Article 260 would probably be considered inapplicable with respect to German interests in that country. As a co-belligerent in the war, and as a country not bound by the Treaty with Germany, China is doubtless in a position to exercise, if she so desires, sovereign rights with regard to property within her jurisdiction so as to prevent transfers of property in accordance with Article 260. It would seem desirable no effort should be made looking to transfer of property in that country.

Fourth: Having in mind the several doubtful practical and legal questions involved in point raised in your ninth paragraph, we

consider advisable adoption of view of legal service therein mentioned.

COLBY

462.00 R 29/161 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 9, 1920—midnight.

[Received April 10—6:11 a.m.]

951. B-12 for Department and Davis. Your R-305, April 2d [March 31], Rathbone's R-455, March 25th, regarding article 260.

1st. Your views set forth in your R-305 communicated to Reparation Commission which discussed matter this date.

2d. It was decided to forward to Germany letter quoted in Rathbone's R-455, paragraph 5.

3d. Your opinion stated in your paragraph 2, R-305, as to manner of disposing of these properties was laid before Commission. Bradbury thought the Commission finally accepted or [at least] committed itself to sell to governments under the terms of letter referred to in paragraph 3a of Rathbone's R-455. I reminded him that while the letter was open to his construction that there was also a reservation in the letter which left the Commission free to dispose of these rights and interests as it saw fit and that in view of your instructions I reserved rights. This question was not really open for discussion at to-day's meeting. Bradbury's remarks and mine were noted on minutes and it was agreed that the other delegates should confer with their governments on this subject which would be discussed at a later meeting.

4th. Your paragraph 3, R-305, reference China. Commission decided that as this involved interpretation of treaty it should be referred to the Legal Board for decision before discussion.

5th. As discussions reference article 260 may arise again at an early date can you give me the later advices requested in paragraph 10 of Rathbone's R-455. Boyden.⁶⁶

WALLACE

462.00 R 29/169 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 14, 1920—5 p.m.

760. For Boyden from Davis. Treasury B-8.

Your B-12.

First: This Government does not wish to furnish a schedule of interests and rights to be claimed by it under Article 260, provided policy outlined in paragraph second is adopted.

⁶⁶ Roland W. Boyden, assumed duties on Apr. 1, 1920, as American unofficial representative on the Reparation Commission, to succeed Albert Rathbone.

Second: I do not understand from the various cables on this subject whether it is the intention of the Allied Governments to take over in their own name such of the German properties as they respectively may desire, or to take them over on behalf of their nationals who may desire to purchase them. While the Treaty undoubtedly gives the Reparation Commission the power to take over such properties, it was never my understanding that this power was to be exercised in a wholesale fashion and that the respective governments would acquire these properties at non-competitive prices. It was my understanding that this power would be exercised only in specific cases where there was some justification for so doing, and that then the properties would be taken over by the Reparation Commission and sold to the highest bidder to the maximum benefit of the Reparation fund. As you are aware, our opinion is that it is inadvisable to exercise this power in any other way. If the above policy is adopted there is no necessity of our filing a list but after a list is filed by Germany or the Allies it can be given to any American concerns which might be interested in purchasing any of the properties included therein.

COLBY

462.00 R 29/123: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 14, 1920—8 p.m.

765. For Boyden from Davis. Treasury B-7.

See Rathbone's 432 and 439, March 18 and March 20, respectively.

First: We agree substantially with the views expressed by Rathbone and as the State Department has prepared a note to the Allied Governments expressing this Government's views in respect to certain interpretations which they have desired to place upon the Treaty, it does not seem necessary for you to make any further presentation regarding letter of March 4 to the Germans communicated in Rathbone's 382.⁶⁷

Second: As to raw material and food required by Germany under Article 235, this Article necessarily refers to such products as may be imported with the approval of the Reparation Commission, otherwise there can be no deduction from the 20,000,000,000 marks. I am of the opinion that Germany is to pay on May 1, 1921, 20,000,000,000 gold marks less the value of the food and raw materials imported

⁶⁷ *Ante*, p. 366.

by her with the approval of the Reparation Commission, and less the costs of the Armies of Occupation and the amounts with which Germany is to be credited for deliveries under the Annexes of the Reparation Chapter. There is some confusion regarding this which can only be accounted for by the fact that after the Allied Governments, before the Treaty was finally presented to Germany, had given out the notice that Germany would be made to pay 20,000,000,000 gold marks within two years, it was fully realized by all parties that this would be utterly impossible. As a compromise, the changes were made which in effect only required Germany to pay within the first two years the amount of the credits above mentioned, and as provided for in Annex 2, paragraph 12 (c)-1, such bonds as have not been redeemed by May 19, 1921, shall be funded by the delivery of bonds of longer maturity. As to Paragraph seven of Rathbone's 432, I do not believe it was considered by any one at the time of adopting Article 235 that Germany would accumulate any appreciable amount of foreign exchange to apply on her obligations contained therein.

Third: Our conception is that the Reparation Commission has duties as well as rights and that the former consist in avoiding policies which will prevent Germany's economic recovery and the decrease of her capacity to make reparation. The Allied and Associated Powers did not attempt under the Brussels Agreement to force Germany to requisition securities held by her nationals, but at the request of Germany, consented to her so doing and to giving her facilities for disposing of them. I agree with Rathbone that the Allied Powers will soon ascertain that Germany cannot obtain any appreciable amounts through forced sales of German private properties and investments in neutral countries and that as the condition of affairs in Germany grows more desperate, they will recognize the necessity of a liberal and broad policy and the advisability of informing Germany that there is no further intention of acquiring or forcing the sale of German private interests in neutral countries. It is unfortunate, however, to delay this recognition and allow matters to become worse.

Fifth [*Fourth*]: Of course if Germany desires to employ neutral securities belonging to her nationals in the purchase of raw materials and food, we shall offer no objections, but our objection has been to an attempt to force Germany to do this and to the idea that her food and raw materials could be obtained in this manner.

COLBY

462.00 R 29/174 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 16, 1920—6 p.m.

[Received April 17—10:50 a.m.]

1005. B-26 for Davis.

On receipt Department's 652, your Treasury R-305,⁶⁷ sent Commission our assent to letter to Germany asking list securities subject to article 260. Included in this notice of assent your statement United States position about realizing highest possible price, also about China. At meeting April 9, letter to Germany was sent. Nothing else done in connection with this subject except Bradbury suggested informally that Commission was partially committed to giving favorable consideration to proposition of allowing Powers to take what they wanted at valuation without auction. I stated that United States was not committed and must insist on statement which I had presented. Matter will rest here until we get list from Germany and statements from Governments of what, if anything, they want. We can discuss question better when we come to deal with specific properties or concessions. It may appear then that auction is not the best way of realizing highest value for some particular property or concession. Important point is to recognize our fiduciary relation not only to Germany but to all concerned which imposes upon the Commission the obligation to get the highest value. I think Commission will recognize this obligation and in fact has recognized it and there is of course a strong presumption in favor of auction as best method of carrying out the obligation. Boyden.

WALLACE

462.00 R 29/119 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 17, 1920—6 p.m.

799. For Rathbone and Boyden from Davis. Treasury B-13.

Reference Treasury R-272 and Rathbone's 432 March 18, paragraph 13.

There has been delay in preparing this note. There is some doubt in our minds as to the danger of creating a precedent for Governmental interference with the decisions of the Reparation Commission and for one Government attempting to influence another Government as to the position it should take on questions arising before the Commission. If there is a growing indication on the part

⁶⁷ *Ante*, p. 380.

of the Allies to ignore our position and not to give our unofficial opinion the same value as if it were official (as indicated in Rathbone's R-432, paragraph 10, and R-455, paragraph 8, and your B-12, paragraph 3)⁸⁸ then it will raise a very serious question as to what our future procedure shall be. Before proceeding further on the matter we should be pleased to have your immediate opinion regarding the questions above raised.

COLBY

462.00 R 29/178 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 21, 1920—10 p.m.

[Received April 22—1:17 p.m.]

1034. B-34 for Davis from Boyden.

1st. Reference to Treasury's B-7 and B-13.⁸⁹ I am strongly against sending proposed note. Think under present conditions this would be Rathbone's view. Rathbone thought recent hints from Washington through one Government to its delegate had happy effect but note of the Department following this incident would make this delegate and his Government feel that United States and its delegates were continually critical of Commission and their feeling would probably be communicated to other delegates. I also agree fully as to danger of creating precedent for governmental interference by endeavoring to secure pressure on delegates through their governments. The urgent necessity which might justify this action does not now exist. In addition the situation with respect to article 235 is distinctly improved. I shall be surprised if further serious contention against creating [*crediting*] the deliveries under the annexes against the twenty billion marks. On this point good policy and technical legal position both favorable. With less certainty I am inclined to think the advent of [*sic*] whatever the Commission may think as to its legal right to demand securities under article 235 it will not actually do much. As to bad economic policy of such demand there can be no doubt, but as to the technical legal question we, between ourselves, at least, shall make a mistake if we do not keep in mind that the treaty is more than unfortunately worded. Our real strength lies in the letters to the German Commission, though unfortunately again the definite expressions of these letters do not seem to have been embodied in the protocol signed at the time of the treaty's signature. If proposed note of protest ever becomes necessary should therefore be based primarily on economic

⁸⁸ *Ante*, pp. 371, 377, and 381, respectively.

⁸⁹ *Ante*, p. 382, and *supra*.

principle and principle of good faith resulting from letters to German Commission and not on technical interpretation.

2d. There is no tendency growing or otherwise to ignore your opinion or your delegate. Rathbone, so far as I can judge the situation, is greatly to be congratulated on the position of influence and respect which he established for himself personally and for the United States and the members of the Commission accept me as his heir without reserve. Present Congressional tendency towards peace resolution may change this feeling but no indications of change yet.

3d. Your conception that Commission has [duties toward] Germany as well as rights against her, see third paragraph Treasury B-7, is accepted in principle by Commission. The issue was quite definitely forced by Rathbone at Paris last meeting he attended in connection with the relation of the Ruhr incident to coal supply. The difficulty on this point will come on the practical application of the principle. Recognition of necessity of a liberal and broad policy requires a course of education now obviously progressing slowly but liable to be stopped abruptly by sudden forcing of issue particularly in any general terms. Boyden.

WALLACE

462.00 R 29/178 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, May 3, 1920—4 p.m.

876. For Boyden from Davis. Treasury B-20.

Reference your B-34.

The information given by you and the opinions expressed, in which I thoroughly concur, has clarified the situation and nothing further, at least for the present, will be done in respect to the suggested note of protest.

POLK

462.00 R 29/211 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 12, 1920 noon.

[Received May 13—1:12 a.m.]

1138. B-82 for Davis.

2d. World opinion is evidently gradually forcing France consider more seriously immediate determination specific sum or more

likely minimum, eventually increasing from time to time according to increase in Germany's ability, to be determined by Reparation Commission or other tribunal on basis some statistical standard agreed upon by Powers or determined by Commission or tribunal.

3d. Present legal position of Reparation Commission clear. Seems to be accepted by our legal service and entire Commission that while we have certain powers with respect to postponement of payment, also certain power of determining when bonds shall be issued, we have maintained [*have no?*] power to negotiate with Germany for payment of any fixed sum smaller than total reparation bill determined according to prima facie evidence as stated in treaty. Also settled that four months period allowed Germany to make offer of fixed sum either for whole or any specific part of reparations has expired because four months period dated from signature and not from coming into force of treaty. Baruch's recent statement seems based on theory that Reparation Commission had full power which is fundamentally wrong. Legally matter is for Governments, not for Commission.

4th. All members of Commission except France thoroughly convinced necessity of recognizing practical conditions and desirous having Commission at least formally recommend to Powers immediate definite determination Germany's liability using all possible influence of Commission to secure this result. Matter not yet formally discussed in Commission. Poincaré's attitude in article *Revue des Deux Mondes* also article in *Matin*, shows distinct hostile tendencies. We have been endeavoring arrange informal conference with him for interchange of views. Have had difficulty and delay even in arranging this informal conference which we regard as important preliminary to proposed discussions at Spa. We think delay probably due to fact Millerand and Poincaré not wholly in agreement and Poincaré probably trying to arrange understanding with Millerand before discussions with us. Poincaré in brief discussions relies mainly on technical legal situation inclining to view that our powers depend on treaty and not our business to close [*change?*] treaty or even to suggest changes, also emphasizes France's difficulties, saying France has no objection to determination of fixed sum if large enough to pay reparations but obvious purpose of all present discussions is not so much definiteness of indemnity as reduction in amount of indemnity, that reduction will not meet France's needs and that even if Millerand should be convinced that reduction ought to be made very doubtful if he can get support of Chamber for necessary vote modifying treaty.

5th. I have no hesitation in assuming your policy favors both definiteness and reduction of amount to some figure within the limits of economic possibility which is most strong personal view. In

foregoing statement this policy shall of course emphasize that fundamental reason is no[t] charity towards Germany but belief it represents economic wisdom for the world and fully as important in interest of France as in interest of any other country.

6th. Even if present endeavor to secure determination of definite figure for German indemnity [and] reduction in amount does not succeed and Reparation Commission still remains under obligation to determine full amount of Germany's bill, some arrangement ought to be worked out sooner or later for determining amount of this bill in a wholesale way without going through all infinite details and complexities of accounting. If Governments call for any of their percentages in reparations then Commission ought to be able to arrange somewhat arbitrarily with Germany agreement on amount of total bill, the purpose being to reach definite idea of figure which would be reached by detailed accounting without bother expense and delay of such accounting. Mistake of a few milliards will be of slight importance compared with advantages to all parties but even this arrangement might be regarded as technically contrary to the treaty and so require assent of Governments.

7th. Any determination of amount Germany is to pay and particularly any reduction in amount of her present returns of liability involves question how far United States is to share in reparation payments. My understanding is policy of administration not to share in reparation payments except so far as we retain ships and apply property in the hands of Alien Property Custodian, also reimbursement expenses Army of Occupation. This policy cannot be final without ratification by Senate perhaps by Congress. Anything possible to bring about final decision should be done. Whatever our decision we are of course to be charged with whatever dyes and pharmaceutical supplies we receive [garbled group]. In connection with discussion of our policy and application of policy when determined, also in connection with discussion various reparations [proposals] as they arise here from time to time, we shall need as accurate and complete information as possible about United States damages prepared on the same lines as damage claims of other Governments I transmitted. Think we are likely to need this even if we never ratify the treaty, therefore suggest your consideration arrangement for competent intensive study of problem. Possibly this already arranged but I seem to have nothing later than Lansing letter to you dated December 3, 1919.⁶⁸ This seems very good but probably needs to be corrected in the light of further information and preparation should be made for supporting claims by evidence in case necessity arises.

⁶⁸ Not printed.

8th. Every cent spent on Army of Occupation reduces amount available for reparation. Know nothing about subject but am wondering whether anything can be done by us or other Governments towards cutting off this expense. Substitution of French troops for our own troops would reduce expense somewhat. Ought any action to be taken on this subject? Boyden.

WALLACE

462.00 R 29/216 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 18, 1920—5 p.m.

[Received May 18—1:24 p.m.]

1169. B-91. For Davis. Supplementing my B-82.

Commission decided yesterday ask all government[s] signing treaty, whether ratified or not, to report to Commission what progress made in making up claims, what doubtful questions upon which they desired rulings, nature of proof they proposed to such [*sic*]; also to submit complete files of evidence in specific cases of various kinds for consideration as test cases, all for the purpose of enabling Commission to formulate regulations for presentation of claims; also [to] request suggestion as to fixing definite time limit for filing claims with Commission. Foregoing request not formal, but merely practical useful preliminary for assistance work of Commission. Foregoing for your information. Commission request when drafted will probably be sent to Embassy. Boyden.

WALLACE

462.00 R 29/218 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 20, 1920—8 p.m.

[Received May 21—11:35 a.m.]

1178. B-93 to Davis, supplementing my B-91. Notice referred to therein received at this office today. Follow lines understood with addition of request for brief summary of character of claims likely to be finally presented. I should be inclined merely to state informally to members of Commission that under present conditions United States would make no formal reply to this present letter. Other alternative would be to present a summary of the claim which United States might assert if we ever decide to make any claim for repay. Something of this nature advisable sooner or later even if only for the purpose of putting on record what claims the United States renounces, but for present in view of status as to ratifica-

tion [and] also somewhat unsettled policy with respect to satisfaction of claims through property in the hands of Alien [Property] Custodian, seems undesirable to say anything officially on this subject confining myself to assisting as unofficial member of Commission in reaching sensible conclusions as to general regulations to be adopted by Commission. Incidentally please give me your best present guess as to value property held by Alien Property Custodian also approximate amount of claims likely to be satisfied out of such participation [*property?*]. Boyden.

WALLACE

462.00 R 29/211: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 22, 1920—4 p.m.

986. For Boyden from Davis. Treasury B-34.

Your B-82.⁸⁷

First: While France may not yet be prepared to fix German liability at a definite reasonable sum, future developments will undoubtedly force them to change their present attitude. I am satisfied that it is impracticable and will not be necessary to determine upon any complicated plan of conversion as outlined by Kent, and if it is not possible to fix the German liability at an amount which Germany can pay, then in any event it should be possible to fix an arbitrary amount, as indicated in your paragraph 6th. For these reasons I am reluctant to enter into another study of the plans indicated by Kent, but if you find it necessary to reach some decision, I may say that I am inclined to his second proposal, but prefer to have you exercise your own judgment. Your paragraph 5th states most accurately our views as to the necessity of fixing the German liability at an amount reduced to Germany's reasonable expectant capacity to pay. Press despatches indicate that present compromise plan of the British and French premiers is to fix a minimum sum which may be increased under certain conditions. This, in my judgment, is most unwise and impracticable. Such a plan would destroy all incentive on the part of Germany because the harder the Germans work and the more they save, the more they would have to pay, and it would also diminish, if not destroy, the confidence in the bonds which would be issued by Germany. The longer a constructive settlement is delayed, the less Germany will be able to pay and consequently the smaller amount will have to be fixed eventually for the indemnity. The French are better losers than winners. Their minds are concentrated on what Germany owes and should pay and

⁸⁷ *Ante*, p. 386.

they seem incapable of realizing that the longer they hold out for the full amount the worse conditions in Germany will become and the less Germany will be able to pay. I judge from press despatches that they are beginning to realize Germany's limitations of economic recovery, because, although they do not yet give up the hope of collecting the full amount some way, they are apparently trying to devise some scheme whereby the United States will either guarantee the German indemnity or will pay such part as Germany cannot pay. They still have the idea that the United States is a Santa Claus.

Second: I quite agree with your views as to the legal position of the Reparation Commission. It would be most advisable if before the meeting at Spa the Commission could register its views even with the dissenting French opinion. This would be a proper function of the Commission, which will lose its powers and influence unless it exercises them, and would have influence on the Conference at Spa. I rather suspect that when the French do finally give in, as they must, on fixing the German liability, they will endeavor to find some supposedly logical means for connecting with reparations the payment of their indebtedness to the United States and England.

Third: Referring to your paragraph 7th, I shall endeavor to have our claims revised and sent to you. While the fixing of the German liability at a sum considerably less than what Germany actually owes under the categories of damage in the Treaty would involve a proportionate cancellation or reduction in claims by the respective governments and might eventually require Congressional approval on our part, there are apparently no obstacles now to our agreeing to a fixed indemnity. The Executive Department has the power to file or withhold the filing of claims, and the President has, for instance, declared his intention not to collect for pensions.

Fourth: I do not believe that your paragraph 7th correctly states our position. I doubt if we can use the ex-German ships held by us towards payment of our claims. If we adhere to the Wilson-Lloyd George Agreement⁶⁸ and Congress so approves, we must pay into the Reparation fund the value of those ships in excess of the value of the ships allocated to us against our losses. If we do not adhere there is the possible eventuality of paying German private owner direct. My understanding is that if we ratify the Treaty and Congress so approves we can only collect from the Alien Property fund for the damages to American property in Germany during the war and for our claims for losses prior to our entry into the war, or debts owed Americans by Germans. If the balance of the fund is retained, the cash value may be received as credits to Germany on her reparations

⁶⁸ *Post*, p. 512.

obligations. On other hand, subject to Congressional action it can be returned to German owners. I also understand that we are to collect direct from Germany for the cost of the Army of Occupation, and that this has no relation to the Alien Property Custodian fund. It is not advisable to make any move regarding the Armies of Occupation because this is essentially a political question. We explained during the peace negotiations that the expenses incurred for the Armies of Occupation would reduce correspondingly the amount which Germany can pay for reparation.

COLBY

462.00 R 29/218 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, May 28, 1920—7 p.m.

1036. For Boyden.

Treasury B-42. Your telegrams B-91 and B-93.^{es} Until attitude of Congress regarding disposition of German property and ships taken over by Alien Property Custodian is indicated it will not be possible to state amount of reparation, if any, United States may ask, if the treaty is ratified. Necessary also to hold a conference of certain executive branches of Government to determine what Government claims, if any, should be included as reparation.

For your confidential information, Alien Property Custodian states approximately \$426,000,000 is amount of enemy funds or property now held by him or Treasury, based on values at the time taken. This amount will be materially reduced by proposed amendment of Act which would permit return of property taken over belonging to Americans, citizens of associated or neutral states, or of new states, etc.

A partial statement of pre-war claims which might be paid from the Alien Property fund would include \$80,000,000 of submarine losses and perhaps \$50,000,000 to \$100,000,000 of losses arising from damaged American property in occupied territory on account of destruction, requisitions, etc. American losses would be greatly increased by admission of War Risk Insurance Claims. Regarding them a policy is yet to be adopted.

It is almost impossible to attempt an estimate of the damage in enemy or ally-of-enemy states to American property. There has not yet been opportunity for owners to find out what has happened to their property and they are not in a position to know amounts or nature of claims they may make regarding it. The amount of

^{es} *Ante*, p. 389.

American property in enemy and occupied territories is almost \$500,000,000. Germany did not begin restoration of American property until January 11, 1920, and all American cash still being withheld.

Information asked for in your B-75⁶⁹ is being prepared.

COLBY

763.72119/9957 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

[Paraphrase]

LONDON, June 3, 1920—noon.

[Received June 3—9:32 a.m.]

886. Curzon asks me to formally communicate invitation to the United States to send representatives to coming Allied-German Conference at Spa which will probably take place June 21 as planned. The Italians desire postponement which the French oppose. The British feel they are compelled to support the French viewpoint because of the delicate state of French public opinion.

DAVIS

763.72119/9957 : Telegram.

The Acting Secretary of State to the Ambassador in Great Britain (Davis)

[Paraphrase]

WASHINGTON, June 21, 1920—7 p.m.

661. Your 886 of June 3. For your information the President is not inclined to have us officially or unofficially attend Spa Conference. Developments which we are closely watching may change our policy, but it now seems inadvisable for us to attend. One reason is the breaking off of negotiations between Rathbone and British Treasury about which we are sending you a separate cable.⁷⁰ While it is our desire, under the difficult situation, to keep in touch and cooperate as far as possible in reparation question, it seems that if we do not attend the preliminary conferences where policies and program are being determined, we should not blindly attend final conferences and be urged to adopt a program already agreed to by the other interested nations. However, if the Foreign Office presses you for an answer, you may state simply that the United States Government has not yet seen its way to accept cordial invitation to attend Spa Conference.

DAVIS

⁶⁹ Not printed.

⁷⁰ Not printed. These negotiations related to the British debt to the United States.

763.72119/10074b : Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Whitlock)*

WASHINGTON, June 26, 1920—3 p.m.

56. Please cable brief summary of all available information concerning results reached at recent Hythe and Boulogne conferences. Send full report by pouch.

DAVIS

763.72119/10092 : Telegram

The Ambassador in Belgium (Whitlock) to the Secretary of State

[Paraphrase]

BRUSSELS, June 30, 1920—8 p.m.

[Received July 1—9:35 p.m.]

91. Your no. 56 of June 26. At Hythe, where Millerand and Lloyd George met for conference, they discussed disarmament, deciding to send Germany a sharp note refusing her request for permission to maintain army of 200,000 men and demanding that there be not over 100,000 under arms but giving her permission to increase local police. They also discussed indemnities, deciding France should have 55 percent and the [British] Government 25 percent. They made a secret agreement with Serbia allotting 6 percent of the indemnities to that country, thus leaving 14 percent to be divided among Belgium, Italy, and the rest.

At Boulogne the Allies were all represented. The decision regarding the disarmament note was approved promptly, and the decision was made to use military measures such as occupying Ruhr district if Germany did not execute without delay the military clauses of the peace treaty. Regarding distribution of indemnities, the Belgian and Italian delegates on learning of the understanding between England and France refused to approve it and threatened to withdraw from the Conference. To allay their opposition, Lloyd George claimed this was only a proportional distribution as between England and France, or as he said aside to Millerand, "between ourselves", but France insisted it meant a percentage of the complete indemnity. Finally it was decided that the question should be referred to financial experts who are still working on the problem and will report to Allied Conference to be held at Brussels July 2 as a preliminary to Spa Conference, July 5.

WHITLOCK

763.72119/9957 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Davis)*

[Paraphrase]

WASHINGTON, June 30, 1920—6 p.m.

693. Repeat to Berlin Department's confidential telegram no. 661 of June 21. Add that Department understands the Reparation Commission has already determined to go to Spa; that therefore Boyden will be present; and that we suggest Dresel⁷⁰ send Boyden the substance of his telegram no. 690 of June 24 to Department.⁷¹

DAVIS

462.00 R 29/254 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, July 1, 1920—noon.

[Received 11:58 p.m.]

1344. B-137 for Davis.

1st. Keneipp tells me that discussion in which proportions of any indemnity received by France and England, were fixed at, France 55 parts, England 25 parts, was based on report of some subcommittee largely if not wholly American, which contained estimates of damages of various countries, estimates being fairly definite for England, France, Belgium, rather hazy for Italy. This paper then in possession Loucheur,⁷² but neither Bradbury nor myself able to find any copy. I have been searching our files here, also Embassy files without success. Can you give me any indication where this document can now be found, or where reference is made to it in any of the *procès-verbaux*?

2d. I get the impression that Lamont⁷³ had something to do with the matter, so consult him if you have not required information. In any case please cable your or his best recollection of figures. Some approximation would be helpful to Keneipp if nothing better can be obtained. This document has bearing on pending discussions. You will recognize importance of haste. Boyden.

WALLACE

⁷⁰ Ellis Loring Dresel, American Commissioner at Berlin.

⁷¹ Not printed.

⁷² L. Loucheur, French representative on the Organization Committee of the Reparation Commission, and chairman of the committee.

⁷³ Thoms W. Lamont, technical adviser, American Commission to Negotiate Peace.

462.00 R 29/254 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, July 2, 1920—7 p.m.

1202. For Boyden from Davis.

B-62. Referring to your B-137, July 1, Embassy's 1344. See Department's 3645, November 1, 1919, my R-30,⁷² for Rathbone.

Proportions in which the several Allied countries should share in indemnity payments of Germany was discussed several times in informal meetings of the Reparation Sub-Commission, the records of which are included in Dulles's "Record of Confidential and Informal Memoranda and Conferences Dealing with Reparation Clauses."⁷² Figures of 25 percent for Great Britain and 55 percent for France were only tentative and were based upon a schedule of estimates of damage suffered by the several Allied Powers under categories of part VIII (Reparation), annex I. This schedule revised to June 6, 1919, showed following damages: France \$20,000,000,000; Great Britain \$11,000,000,000; Belgium \$5,200,000,000; Italy \$4,000,000,000; United States \$940,000,000; Japan \$175,000,000; Serbia and Montenegro \$1,200,000,000; Roumania \$1,000,000,000; Greece \$100,000,000; all others including China, Portugal, Siam, Armenia, etc., but not including Poland, Czechoslovakia, and Russia, \$250,000,000. These figures only roughest approximation. This schedule listed damage suffered by each nation under each category and is being forwarded to you in next pouch. Although this schedule was basis for informal discussions, no definite agreement regarding percentages was ever reached. The only formal agreement on this subject is contained in that adopted and signed April 30, 1919, by President Wilson, Lloyd-George, and Clemenceau as follows:⁷³

"The proportions in which receipts from Germany are to be divided between the Allied and Associated Governments in accordance with Article 7 of the Reparation chapter of the Draft Treaty with Germany, shall be those which the aggregates of the claims of each against Germany which are established to the satisfaction of the Reparation Commission, in accordance with Annexes 1 and 2 of the Reparation chapter, bear to the aggregate of the claims of all against Germany which are established to the satisfaction of the Commission."

This document was signed in triplicate and copies were sent to American, French, and British Treasuries. My recollection is that

⁷² Not printed.

⁷³ Text of agreement is not paraphrased.

British and ourselves thought French claim of 20 billion dollars excessive, the British claiming 10 billion probably nearer fact.

DAVIS

462.00 R 29/254: Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Whitlock)*

[Paraphrase]

WASHINGTON, July 8, 1920—1 p.m.

57. Give Boyden, American unofficial representative on Reparation Commission, the following information:

1. Contents of your no. 91 of June 30.
2. Department has been informed by Yugoslav Legation that its Government fears that at Brussels or Spa an attempt will be made to reduce part of indemnity apportioned in Paris to Yugoslavia, in favor of Germany and Italy, and requests that if such decision is made United States will not consent to it. We have replied that this Government is not sending an official representative to attend the conference at Spa but it still adheres to the principle established by signed agreement between President Wilson, Lloyd George and Clemenceau of April 30, 1919, quoted in Department's no. 1202 of July 2 to the Embassy in Paris for Boyden, and further that no official word has been received of an intention of the Allied Governments to depart from principle of above agreement, or of the reasons why United States should concur in a change of policy. Our reply also states it is understood that some time ago estimates were made of claims and percentages of distribution for the purpose of discussion and information but were never adopted by Allied and Associated Powers or Reparation Commission.

3. According to our recollection the agreement of April 30, 1919, was reached because it was impossible for the Allies to agree among themselves at the time upon fixed percentages of distribution. We appreciate that as a practical matter and especially to avoid padding of claims against Germany which will be presented by various countries, percentages should be agreed upon to supersede the agreement of April 30, just as a definite reasonable sum representing reparation liability of Germany should replace indefiniteness of treaty provisions in this regard. However, reports of recent inter-Allied conferences at Hythe, Boulogne, and Brussels indicate that the Allies are not yet prepared to reach a reasonable and sane solution of indemnity problem. It appears that opposition is developing on part of Italy and lesser Allied Powers to control by France and Great Britain of these matters. After the possible failure to come

to an agreement at Spa an opportunity may arise for the United States, possibly at the request of all parties, to take part in effecting a reasonable general settlement of these reparation problems. In view of these circumstances it seems that, although it may ultimately be necessary for the United States to participate in solution of reparation questions which will come before Spa Conference, the present is not opportune for such participation and the United States should play a waiting game, even regarding suggestions as to the amount of indemnity.

4. That paragraph 3 explains in general our failure to name a representative to attend the Conference at Spa and may help him in Reparation Commission discussions.

DAVIS

763.72119/10168 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, July 21, 1920—10 p.m.

[Received July 23—7:32 p.m.⁷⁴]

1427. B-165. For Department and Davis.

1st. Following attempt give personal impression of Spa Conference. No one except newspaper reporter could be absolutely sure of such impressions even if actively engaged in discussions or on most intimate terms with actors themselves which was not my case. Nevertheless personal impressions may be of interest and possibly of assistance but my guess is that Dresel's opinion as to reactions of German delegation after their return home and course of political events in Germany for next three or four weeks will give best indication whether Spa accomplished anything or not.

2d. I was at both Brussels and Spa. I took part in only two official meetings both near end of conference—one, the only meeting of Reparation Commission. At this meeting coal agreement was submitted for criticism of Commission before signature. Commission approved agreement. Second meeting was so called mixed committee composed of representative[s] of Prime Ministers and members of Reparation Commission to which committee Supreme Council referred Germany's indemnity proposal. Purpose of reference was not to negotiate or make decisions but merely obtain explanations from Germans and get clear understanding of proposals for report to Supreme Council. This purpose distinctly stated by Belgian chairman to Germans at the beginning of meeting. Germans made some general explanations and answered a few

⁷⁴ Telegram in three sections.

questions. Then chairman asked for their proposal for amount of minimum indemnity. This demand was in direct contradiction of chairman's opening statement as above explained inasmuch as German proposal clearly contemplated determination of amount of minimum indemnity by experts. Germans instead of making this obvious reply admitted they had minimum figure in mind which they hesitated to propose—first, because it was much below expectations of Allies; second, because they had not been authorized to name figure by Government. Allies chairman insisted that further discussion useless until figure named and meeting adjourned to allow Germans obtain authority from Berlin to name figure. This took place while coal discussion was at most acute stage. Germans later sent word that they could not consider naming any minimum figure until coal question settled. After coal question settled Supreme Council decided refer indemnity question for discussion to later conference between representatives of Allies and of Germany at Geneva. Result was that no further meeting of this mixed committee took place.

3d. Information came to me so slowly during earlier stages that I got impression they were purposely avoiding keeping me informed. I could not make special efforts to obtain information without loss of dignity and felt rather embarrassed although I had made it perfectly plain to everybody that I was there wholly on my own responsibility without any instructions, that my purpose was to be useful if I could be of service, that I was particularly anxious not to be in the way and wanted to be told if my presence was an embarrassment at any time. Later concluded that nothing of this was intentional because it became evident when Reparation Commission became officially concerned they had no reservations regarding my presence or participation. Also members of Reparation Commission later talked freely with me regarding coal and anything else under discussion while discussions were continuing and also talked freely about matters previously discussed. I speak of my earlier impression merely as an indication of the difficulty of keeping close touch which is bound to exist when our representative is not a participant. It also is significant in indicating: first, that no advantage was taken of my presence to try to get United States into the game; and second, that no one thought it worth while to use me as medium of communication to keep United States informed confidentially or otherwise of decisions and policies. The decisions were by the Prime Ministers and their representatives and Reparation Commission as a commission was merely an incidental factor, this was one obvious fact. Some suspect this was result of definite purpose to minimize importance of Commission. I think it probably attributable mainly to fact that

Premiers naturally took the lead and were very busy, were close [enough] in touch with individual members of the Commission to get all information and advice they needed, had no time to play up Reparation Commission, probably failed to realize failure to do so had strong tendencies to minimize importance of Reparation Commission in eyes of people outside, particularly the Germans. Result also due to fact that earlier discussion had no close connection with Reparation Commission so that they got started on the other theory. As indicated above, Commission took more part towards the end but nevertheless its connection with indemnity meeting to which I have referred was quite subordinate and decision at end to refer indemnity question to later conference made to Reparation Commission and I do not yet know whether it is intention to have Commission present at this conference, though I will be present.

4th. It should be added that the conference, its discussions and decisions, should be those of the Powers as distinguished from Commission. Powers had been notified of default on coal so under terms of the treaty it was for Powers to determine what steps should next be taken. Also contemplated indemnity discussions involve departures from treaty and are therefore for Powers. My only thought is that Powers ought to make considerable efforts to give prestige to Reparation Commission which will otherwise become an ineffective instrument for carrying out treaty provisions and subsequent modifications.

11th. Details and conditions of agreement as to percentages changed under continued discussion until signed at very end of Conference. Document finally commonly known as the Monster—I have one of later drafts but not final. Roughly speaking, England made her agreement to concession on percentage conditional on agreement as to valuation and hire of ships, terms very favorable to England. Other countries made similar conditions on different [matters] particularly France and Belgium on railway material; also Belgian agreement as to changes in her priority rights [, rather complicated]. Lloyd George kicked a good many of details, which seemed pretty well settled, out of window at end. His vitality easily outlasted others who signed complacently to surprise of some English in spite of the fact that they had seen same thing happen before. Since her [the?] final agreement somewhat simplified will send summary when get final draft.

12th. Probably only important point in agreement preceding paragraph from our point of view is agreement as to hire and valuation ships. Am satisfied that real purpose of English was not to be unfair to Germany but to avoid possibility that high valuation of

ships describing reduction England's percentage in reparations would result in England being obliged to make large payment in cash to reparations pool. Without going into details agreement provides ship valuation for all countries based on England's sale of reparation ships to English [nationals] at auction. Apart from question whether such auction likely to bring fair prices at the time of auction it is obvious that valuation of each ship should be figured at the time of delivery and this agreement provides for determining value long after many of the ships were received and at times when ships values are much depreciated. This agreement may interest us because of possible effect in the way of precedent in carrying out Wilson-Lloyd George agreement,⁷⁴ if that ever ratified. I have not considered this as yet, being concerned for the moment only with fact. [It is] also agreed that valuation on this basis shall be value credited Germany in reparations. While I recognize also difficulties in getting any satisfactory valuations [of so many] ships nevertheless credit on foregoing basis will not be fair to Germany. At coal meeting of Commission referred to above I stated that I had not seen [percentage] agreement but understood that it contained certain allowances as to valuations of property received from Germany; that I wanted to state flatly that under the treaty valuation must be made as of time property delivered unless language on any particular property specified differently, am [was] convinced both Commission and Powers appointing Commission were under obligation to see that all valuations were fair to Germany and that I was willing to examine any agreement sympathetically but would not [stand for] anything which did not comply with the principle I stated. I thought members of the Commission were rather glad to have me say this formally and have no doubt they fully agreed with me. My belief is that this question will be eliminated either by Germany's consent to values in return for some other concession or more likely [by] arranging fixed amount of indemnity exclusive of such deliveries as ships. This will leave this agreement without effect except as between powers who accept it and with that we have no concern.

13th. No need say anything about question of disarmament or war criminals. Will send copy of coal [protocol] which in my judgment should be quite satisfactory to both sides under all existing conditions. German indemnity proposal seems to me correct in [principle]; in fact conforms exactly in principle to theory which Allies formulated at Hythe and Boulogne. My belief would have been foolish for Germany make any definite offer which would be merely subject for attack but they ought to have met psychology of situation better by saying that responsibility of fixing amount

⁷⁴ For text of agreement, see p. 512.

must rest with Allies, they being prepared furnish all possible information and even advise as individuals if asked but not to be responsible for any offer, that whatever amount fixed they as beaten nation proposed make every possible effort meet terms and wanted Allies arrange keep in close touch so as to realize their efforts and their difficulties in hopes that if experience demonstrated impossibility Allies would then recognize and meet situation. The Allies are going to fix indemnity themselves in any event and Germans ought to take the opportunity to spill some language indicating acceptance of defeat and determined intention take all reasonable consequences. Possibly politics prevent any such simple attitude.

14th. The conference had to be [held]. It probably could not have come earlier; it is fortunate that it was not deferred longer. Both sides have much to learn and they made as good a start as could reasonably be expected though it was so tremendously over-advertised that its results are now under-appreciated by many. The Germans must have appreciated that they were met in as conciliatory spirit as is humanly possible at this date and must see that this is a big step toward future relations. The Allies saw some very good Germans, particularly Melchoir,⁷³ and Simons⁷⁴ also made good impression. The Allies also got much better conception of Germany's tremendous difficulties, not only economical but political. It was common talk for instance that the French were in far more conciliatory attitude at conference than ever before. It was obvious also to me that Allies weakened very much with respect to their confidence in figures which they regarded as settled after Hythe and Boulogne. I felt they shrank from putting forward those figures and were good deal relieved when protracted negotiations on other points made postponement of reparations possible and even natural though most conspicuous thing about conference is its failure to discuss question for which it was called. It is [a mercy] that reparations was not discussed at the end for everyone engaged except Lloyd George was tired to breaking point and tension and irritation would have been too great for any good to come out of it.

15th. Belgium, both cities and country, gave at least superficial impression of activity, prosperity, and even happiness though friends at Louvain emphasized existence of many cases of hardship in their University community but I should be slow to believe Belgium now has difficulties different from or much more serious than those in England or United States; as compared with France Belgium is on easy street.

16th. Will send confidential copy this cable to Dresel. Boyden.

WALLACE

⁷³ Possibly Herr Mechler of the German Foreign Office.

⁷⁴ Dr. Walter Simons, German Minister for Foreign Affairs.

763.72119/10211 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, July 29, 1920—3 p.m.

[Received July 30—11:28 p.m.⁷⁵]

1465. B-173 for the Department and Davis.

First. I summarize coal protocol referred to in paragraph 13, my B-165, 21st, as follows:

1. Germany to deliver for six months from August 1, 2,000,000 tons monthly.

2. Allies credit Reparation Commission at German internal price under paragraph 6(a), annex 5. "In addition in consideration of the admission of the right of the Allies to have coal of a specified kind and quality delivered to them, a premium of five gold marks per ton payable in cash by the party taking delivery shall be applied to the acquisition of foodstuffs [for] the German miners."

3. In the exercise of stipulations of annex to protocol which annex provides Reparation Commission required immediately establish delegation at Berlin to arrange programs of distribution of coal as between Germany and Allies including details of origin and kind; also see that programs are carried out and no modification of programs involving reduction in deliveries to Allies made prior approval of Berlin delegation. Reparation Commission to notify to interested powers any infraction of principles adopted.

4. Provides for agreement between Allies for distribution of Upper Silesian coal by a commission on which, according to English text, Germany shall be represented and according to French text, at whose deliberations German representatives shall be present, agreement to be submitted for approval Reparation Commission.

5. Commission on which Germans represented to meet at Essen to improve conditions of life among miners with a view to better working of mines.

6. "The Allied Governments [declare] their readiness to make advances to Germany equal in amount to the difference between the price paid under paragraph 2 above and the export [price] of German coal f.o.b. in German ports or the English export price f.o.b. in English ports whichever may be the lowest as laid down in paragraph 6b of annex V, of part VIII of the Treaty of Versailles. These advances shall be made in accordance with articles 235 and 251 of the Treaty of Versailles; they shall enjoy an absolute priority over all other Allied claims on Germany. The advances shall be made at the end of each month in accordance with the number of tons delivered and the average f.o.b. price of coal during the period. Advances on account shall be made by the Allies at the end of the first month without waiting for exact figures."

7. "If by November 15th, 1920, it is ascertained that the total deliveries for August, September and October 1920 have not reached 6,000,000 tons the Allies will proceed to the occupation of a further

⁷⁵ Telegram in two sections.

portion of German territory, either the region of the Ruhr, or some other."

Foregoing is end of protocol.

There is attached a second annex signed by Belgium, England, France, Italy as follows:

1. "Advances shall be made to the German Government in accordance with the protocol relating to the deliveries of coal to the Allies by Germany, signed today, and the signatory Governments shall severally take responsibility for the making of the said advances in the following proportions, viz, France 61 per cent, Great Britain 24 per cent, Italy 7 per cent, Belgium 8 per cent.

2. Such advances shall be repaid with interest at the rate of six per cent per annum not later than May 1st, 1921, out of the first payments made by the German Government on cash on account of reparation, and shall be additional to and (subject to the approval of the Reparation Commission under article 248 of the Treaty of Versailles) shall have absolute priority over all charges against the German Government arising under that treaty or any agreements supplementary thereto."

Protocol and two annexes accepted by Germany. There is also supplementary memorandum or third annex providing that in determining amount of loan, average price of June deliveries shall be taken. English f.o.b. price to be average price of unscreened coal delivered by England to France calculated in gold marks. German pit head price to be average of pit head price to German nationals calculated in gold marks of unscreened coal ruling [in the] Ruhr. Four tons of coal are to be equivalent to three tons coke and three tons coal equivalent to seven tons lignite briquettes both for the purpose of payment of extra five gold marks [and] for the purpose of loan. The terms of this annex have been agreed upon by powers interested but not yet discussed by Germany. Our representatives of [on] Restitution Committee to discuss these proposals with Bergmann. Purpose of these details is to make loan arrangement more definite and easily workable.

Second. Incidental remarks.

[1] Two does not apply to sea-borne coal. Unless instructed to contrary I will not put any American representative on proposed Berlin delegation which at present seems to Logan and me loaded with possible future trouble; first, because of controversies with Germans respecting arrangement and carrying out of programs; second, its decisions may lead to occupation of territory under later provisions of protocol and as United States has [no?] direct interest in coal distribution as between Germans and Allies and no intention of

participating in further occupation of territory probably ought to keep free as possible from this particular complication. Referring to paragraph 4 I made definite statement in course of Reparation Commission discussion that proposed agreement must take into account pre-war distribution of Upper Silesian coal and economic necessities of outside European powers dependent on Upper Silesia for coal, that this principle was important and would be insisted upon so far as United States had influence. Reparation Commission has no responsibility at present with respect to commission contemplated.

2. Though this responsibility may possibly be later delegated to Commission, decision what is and what is not seagoing coal under language of treaty, referred by Commission [to] Bradbury and Maucière,⁷⁴ however [at] their suggestion [I] was added as disinterested third party.

3. Loan arrangement was proposed by Theunis⁷⁵ at late stage when negotiations seemed likely to be broken off. Germany was demanding full market price for coal apparently supported more or less by Lloyd George. France and others refused absolutely. Theunis suggested loan from Allies for food and raw materials under terms of the treaty would be well protected, would temporarily, at least [serve] purpose Germans had in mind and would not be surrender by Allies of right to treaty principles. All parties accept this expedient for saving their face. Regulations adopted so hurriedly they forgot Luxemburg and are now arranging for Luxemburg pay additional five marks and also share in loan. Other delegates have remarked facetiously United States if so desires may share in loan. Language as to priority not clear, speaks of payment out of cash payments on account of reparations but later refers to priority over all charges. Did not attract my attention at Spa that priority over all charges might possibly be broad enough to give priority over all costs armies of occupation. Delegates say this point not discussed by anyone at Spa, they do not know whether such priority really intended or not. Our rights depend on armistice, not on treaty, and we have so many ways of protecting this point that I have not considered it seriously important but I told Commission United States would have lively interest on this point and in this and other connections have intimated that whatever else they might discuss it was not safe for them to raise any question about payment cost of United States troops. Participation in

⁷⁴ French assistant representative on the Reparation Commission.

⁷⁵ Lt. Col. Georges Theunis, Belgian representative on the Reparation Commission.

loan seems to have been divided somewhat along lines of indemnity percentage with changes resulting from fact only four powers participate, France getting largest additional percentage. Loan obviously gives opportunity for trade advantages to countries participating in loan, but as yet do not know of any agreement to this effect. Shall ask [Dresel?]. . . .

4. Inter-Allied agreement about percentage contains article stating question of reduction cost armies of occupation to uniform basis reserved until can be discussed with the United States. I do not believe they have any hope of the United States agreeing to accept anything but actual cost so my guess is that they may have in mind question of reducing number. Mention this here merely to point out will afford opportunity to discuss relation this coal loan to our arrangement for payment. Will add that Commission is actively engaged on the question of army costs and payment for the same including Inter-Allied Rhineland Commission and in this connection show no tendency whatever to treat our costs on any different basis from others. Boyden.

HARRISON

763.72119/10284

The Chargé in France (Harrison) to the Secretary of State

No. 1457

PARIS, July 30, 1920.

[Received August 10.]

SIR: I have the honor to transmit herewith six copies of a document furnished me by Mr. Roland W. Boyden, being an Agreement between the Allies for the Settlement of certain questions as to the Application of the Treaties of Peace and complementary agreements with Germany, Austria, Hungary and Bulgaria.

I have [etc.]

LELAND HARRISON

[Enclosure]

Agreement between the Allies, Signed at Spa, July 16, 1920, for the Settlement of Certain Questions as to the Application of the Treaties of Peace and Complementary Agreements with Germany, Austria, Hungary, and Bulgaria

The Governments of Belgium, France, Great Britain, Italy, Japan and Portugal respectively represented by the undersigned, recognizing that it is in the general interest to effect an immediate settlement between themselves of certain problems arising from the application of the Treaties of Peace and the complementary agreements, have agreed upon the following:—

PART I

ARTICLE 1

In pursuance of Article 237 of the Treaty of Versailles, sums received from Germany under the head of reparation shall be divided in the following proportions:—

	Per cent
British Empire.....	22
France.....	52
Italy.....	10
Japan.....	.75
Belgium.....	8
Portugal.....	.75

6.5 per cent shall be reserved for Greece, Roumania, the Serb-Croat-Slovene State, and for the other Powers entitled to reparation which are not signatories of this Agreement.

ARTICLE 2

The aggregate amount received under the head of reparation from Austria, Bulgaria and Hungary, together with the sums received from Italy[,] the Czecho-Slovak State, Roumania and the Serb-Croat-Slovene State, under the agreements made on September 10 and December 8, 1919, shall be divided as follows:

(a) One-half shall be divided between the Allied Governments mentioned in Article 1 in the proportion fixed by the said article.

(b) Of the other half, Italy shall receive 40 per cent, and 60 per cent is reserved for Greece, Roumania, the Serb-Croat-Slovene State, and for other Powers entitled to reparation which are not signatories of this Agreement.

PART II

ARTICLE 3

The Allied Governments recognize that it is in the general interest to determine the total amount due by Germany under Articles 231 and 232 of the Treaty of Versailles, and to make provision for the method of payment on the basis of an agreement embodying:—

- (1) The fixing of annuities to be paid by Germany;
- (2) The faculty for her to free herself at an earlier date by discounting some or all of these annuities;
- (3) The issue by Germany of loans destined for the internal requirements of the country and the prompt discharge of its debt to the Allied Powers.

The Allied Governments declare their readiness to take among themselves such measures as they may deem appropriate to facilitate an agreement of this kind.

PART III

ARTICLE 4

(1) For each of the Allied Powers the Reparation Commission will draw up, as of May 1, 1921, a statement in the following form:

May 1, 1921

Cr.

Dr.

(a) Cost to May 1, 1921 of Armies of Occupation.

(b) Sums advanced to Belgium before November 11, 1918, with interest to May 1, 1921.

(c) Present value of share in reparation.

(d) Receipts on account of Armies of Occupation.

(e) Value of deliveries in kind up to May 1, 1921, excluding restitutions under Article 238 under the Treaty of Versailles.

(f) Receipts to be credited to Germany under Article 243 of said Treaty excluding final balances under Sections III and IV of Part X (Economic Clauses), and sums applied in accordance with Article 5(a) of this agreement below towards the satisfaction of the Belgian priority.

If the payments to be made by Germany consist of annuities, or periodical payments which can be discounted, the credit for the present value of the share in reparation referred to in (c) above for each Power shall be fixed by discounting at 5 per cent the share attributed to that Power in the annuities or periodical payments unless the said share has been, as an exception, fixed at a capital sum.

Where the receipts to be credited under (f) have not been definitely ascertained when the statement is drawn up, the Reparation Commission will estimate the receipts to be credited. The Commission will make such subsequent adjustments in the accounts as may be necessary when the amount is definitely ascertained.

(2) If the above statement shows that a Power has received under (d), (e) and (f) more than the aggregate totals of (a), (b) and (c), the Reparation Commission will notify the amount of the excess to the Power in question, and it shall be paid to the Reparation Commission, by that Power within 3 months from the date of the notification.

(3) In all cases, even where the repayments provided for above has been made, any excess of the sums debited under (d), (e) and (f) over the sums credited under (a) shall be retained for the following purposes:

(a) In the case of Belgium, the excess shall be regarded as a payment on account of her priority of 2½ milliards of gold francs.

(b) In the case of each of the Allied Powers other than Belgium, it shall be treated as an advance repayable in the manner indicated below, and bearing interest at 5% which shall be placed to the credit of the special interest account referred to in paragraph 4.

The amounts so treated as an advance shall constitute contingent reserves for the purpose of enabling the Reparation Commission to meet, during the ensuing five years, the service of the whole or part of the German loans referred to in Article 3 (3) in the event of default by Germany.

For this purpose the amount for each Power shall be divided into five equal parts, one of which shall be attributable to each of the five years. If in any year, the part attributable to that year is not required for the service of the German loans, it shall be applied for the following purposes in the order named:—

- (i) In discharge of sums then due by Germany to that Power in respect of the cost of the Army of Occupation;
- (ii) In satisfaction of sums, either capital or interest, due by Belgium to the Power in question for monies advanced before November 11, 1918.
- (iii) Towards the annuities, if any, due by Germany to the Power concerned.
- (iv) As regards Italy and Japan, towards the payment by anticipation of future installments of the annuities due to those Powers (beginning with the earlier installments) at such rates of discount not being less than 5% (five) as may from time to time be agreed between those Powers and the Reparation Commission.

Any balance not required for the above purpose shall be paid to the Reparation Commission for division among the Powers in the proportions laid down in Article 1.

(4) A special interest account shall be drawn up for each Power, and in it shall be included after May 1, 1921, the interest on the advances referred to in paragraph 3. The credit balance on the account shall be divided among the Powers, other than Belgium, in proportion to the percentages laid down in Article 1.

ARTICLE 5

In consideration of the sacrifice made in the general interest by all the Powers which are creditors of Germany in order to ensure the success of the loans referred to in Article 3, and with a view to avoiding all difficulty in inter-allied financial adjustments, Belgium consents, and it is hereby agreed, that the sum of 2½ milliards of gold francs, to which she is entitled in priority under the Agreement of June 16, 1919, should be ensured as follows:—

Belgium retains, as laid down in Article 4 of this Agreement, the excess of the deliveries in kind and the transfers of German rights and interests received before May 1, 1921. The remainder of the 2½ milliards of gold francs shall, after payment of the costs of the Armies of Occupation which have not been paid as provided in Article 4, and until the priority granted to her is satisfied, be paid:—

(a) Up till May 1, 1921, out of any cash payments received by the Reparation Commission under Article 243, and, in particular from sums received under the following heads:

(1) Reimbursements to be effected under the conditions specified in Article 4 by any Allied Power which has received deliveries in kind or transfers of German rights or interests referred to in Article 243 of the Treaty of Versailles, to a value in excess of her credits with Germany on account of the cost, if any, of her Armies of Occupation, of her reparation for damage, and of the sums, if any, to be reimbursed to her in respect of advances to Belgium up to November 11, 1918.

(2) Receipts in respect of final balances in favor of Germany from the clearing-houses provided for in Article 296 of the Treaty of Versailles and of the proceeds of the liquidation of German property, rights and interests seized by the Allied Powers in their respective territories, and paid to the Reparation Commission in conformity with the provisions of Article 297, paragraph (h) of the said Treaty.

(3) Any payments under Article 254 of the Treaty of Versailles in respect of the assumption of part of the debt of the German Empire, or of a German State, by Denmark (Schleswig) [,] Czecho-Slovakia, or the Free City of Danzig.

(4) The value under Article 256 of the Treaty of Versailles of the assets and properties of the German Empire and States in the territories transferred by Germany received from Denmark (Schleswig), Czecho-Slovakia and the Free City of Danzig.

(5) The acquisition under Article 260 of the Treaty of Versailles of the value of German rights or interests in public utility undertakings or concessions in the countries and territories referred to in that Article.

(6) The sale of arms, munitions, war material and machinery which is to be destroyed in accordance with Article 169 of the Treaty of Versailles.

(7) Sale to Luxembourg of German coal delivered in execution of paragraph 5 of Annex V of Part VIII (Reparation) of the Treaty of Versailles.

(8) Distribution or sale by the Reparation Commission of dye-stuffs and chemical drugs delivered by Germany under the conditions laid down in Annex VI of Part VIII (Reparation) of the Treaty of Versailles.

(b) After May 1, 1921, subject to the payment in priority of the cost of the armies of occupation, the value of all deliveries or

payments made by Germany, and any other receipts of the Reparations Commission available for distribution.

(c) To the extent specified below, the proceeds of the first German loan, and contingently, the proceeds of the following loans, Belgium recognizes that, in order to ensure the success of the loans, it is proper to interest the largest number of Germany's creditors in their success, and not to reserve to one Power practically the whole proceeds. After deducting that part of the proceeds of these loans which is reserved for Germany, Belgium will receive, if necessary, up to 50% of the proceeds.

(d) If the payment of the amounts due by Germany for Reparation is provided for in the form of annuities, sums paid to Belgium by reason of her right of priority will be deducted from her share of the annuities, or from her share of the proceeds of the annuities if all or any of them are discounted. This deduction must be so arranged as to ensure that Belgium's share in the present value of the receipts from Germany shall coincide with the percentage allotted to her in Article 1 of this Agreement.

ARTICLE 6

(1) Germany, by Annex III of Part VIII (Reparation) of the Treaty of Versailles, and Austria and Hungary, by the corresponding provisions of the Treaty of St. Germain and the Treaty of the Trianon, having recognized the right of the Allied and Associated Powers to the replacement, ton for ton and class for class, of all merchant ships and fishing boats lost or damaged owing to the war, and in view of the great difficulty of fixing a fair value for the ships surrendered except after the actual sale of the greater portion of such ships, it is agreed as follows:—

The sale of the ships allotted to the British Empire shall be made before May 1, 1921, by the Reparation Commission on the British market and shall be made to British nationals.

The amount to be credited to the ex-Enemy Powers and debited to the British Empire in respect of merchant vessels and fishing craft allotted to it, or subsequently transferred to it under Inter-Allied Agreements, shall subject to adjustments rendered necessary by repairs or the expenses of delivery be the actual price realised by such sales.

In the case of other Powers, the amount to be debited in respect of merchant vessels and fishing craft allotted to them, or subsequently transferred to them under Inter-Allied Agreements, shall be the average amounts, subject to similar adjustments, realised by the sale of similar ships of each class on the British market.

The value so ascertained shall be debited to the Allied Power and credited to the ex-Enemy Power concerned as on the following dates. In the case of Germany, on January 10, 1920, or the date of the delivery of the vessel which ever may be later; in the case of Austria and Hungary on the respective dates of the coming into force of Treaties of Peace with those countries.

Interest at 5% per annum from the above dates up till the date of sale or up to May 1, 1921, if the ships are not sold before that date shall be debited to the British Empire in respect of ships allotted or transferred to it and shall be credited to the special interest account referred to in Article 4.

In the case of each of the other Powers a lump sum shall be debited in respect of interest and credited to the said special account. This sum shall bear the same proportion to the total amount debited to the British Empire in respect of interest as the value of the total amount of tonnage allotted or transferred to that power bears to the value of the total amount of tonnage allotted or transferred to the British Empire.

(2) No charge shall be debited to any Allied Power to which ships have been allotted for the use of such ships after the coming into force of the several Treaties of Peace.

(3) In the case of ships transferred, the hire of such ships, until transferred, shall be paid over to the transferring Power by the Power to which ships are transferred. Such payments shall be effected by deducting the amount of the hire, plus interest at 5 per cent. per annum from the date of the transfer of the ships, from the first percentage payment, other than payments in kind or services rendered, received either from Germany, Austria, or Hungary, whichever may be the earliest, by the Power to which the ship is transferred, and adding it to the first percentage payment received by the transferring Power.

(4) After the final allotment of tonnage by the Reparation Commission, there shall be transferred to Belgium out of the shares of the other Powers sharing in the distribution of tonnage, such an amount of tonnage as will make up her ton for ton allotment to a total equivalent to the tonnage of the vessels condemned after the Armistice in the Belgian Prize Court. Such tonnage shall be of approximately the same age, type and value as the condemned ships. The contribution of each of the transferring Powers shall be in proportion to their approved claim for the ton for ton allotment of ex-enemy tonnage.

The value of the vessels allotted to Belgium, and also of those transferred to her as above, will be debited to the transferring Powers in the same proportions as they contribute the transferred ships.

The condemnation of the above vessels in the Belgian Prize Court not being recognized by the Allied Powers, Belgium, while maintaining the validity of these decisions agrees, in consideration of the tonnage transferred to her under this paragraph (4) not to claim any interest in these vessels by reason of their condemnation.

ARTICLE 7

No sum shall be credited to Germany for the light cruisers, floating docks or the material handed over, or to be handed over, under the Protocol of January 10, 1920, as compensation for the war ships which were sunk.

As regards sunk German ships which have been, or may be salvaged, a Power to which they have been, or may be, allotted, will be chargeable with the cost of the salvage incurred by the Power which has borne them.

ARTICLE 8

No sum shall be credited to Germany in respect of the proceeds of the sale of warships and naval war material surrendered under the Naval Clauses of the Treaty of Versailles, including the value of the arisings from [*sic*] naval war material which may have been, or may be, sold by the Reparation Commission at the request of the Supreme Council. These sums shall be divided between the Allied Powers in the same proportion[s] as were approved by the Supreme Council for the material surrendered under the Protocol of January 10, 1920.

ARTICLE 9

Italy, shall, in priority to all other Allied Powers, be entitled to retain and set off against the amounts due to her by Austria, Bulgaria and Hungary in respect of the Armies of Occupation and reparation a sum equal to the amount for which she may be adjudged by the Reparation Commission to be liable to account to the Reparation Commission in respect of the value of property transferred and services rendered up to May 1, 1921, under Article 189 and Annexes III, IV, and V to Part VIII (Reparation) of the Treaty of St. Germain, and of the corresponding provisions of the Treaty of the Trianon and also of the sum provided for in the agreement relating to Italy with respect to the Reparation contribution signed at St. Germain, on September 10, 1919, as modified at Paris on December 8, 1919. Italy will in consequence only be obliged to issue the bonds referred to in Article 4 of the said Agreement if and so far as her debt is not covered by the set off provided for above.

ARTICLE 10

The provisions of the present Agreement do not apply to Poland. The right of Poland to reparation for damage suffered by her, as an integral part of the former Empire of Russia, is reserved in accordance with Article 116 of the Treaty of Versailles and Article 87 of the Treaty of St. Germain.

The sums to be credited to Germany and Austria under Articles 92 and 243 of the Treaty of Versailles, and Article 189 of the Treaty of St. Germain, shall be entered provisionally in suspense accounts carrying interest at 5 percent per annum.

ARTICLE 11

The stipulations of the present Agreement shall not affect the operation of the provisions of Article 232, paragraph 3, of the Treaty of Versailles.

The amount of the sums borrowed by Belgium up till November 11, 1918, including interest at 5 per cent. per annum up till the date of payment, shall rank immediately after the payment of 2½ milliards of gold francs referred to in Article 5 and be distributed as equally as possible over the sums paid each year by Germany before May 1, 1926.

Sums paid in advance by Germany shall not be applied for the purpose of discounting this part of her yearly payments.

ARTICLE 12

Nothing in this Agreement shall prejudice the right of the Allied Powers to repayment of the relief credits afforded by them to the ex-enemy Powers.

ARTICLE 13

The question of the reduction of the cost of the Armies of Occupation to a uniform basis for all the Allied and Associated Powers is reserved in order that it may be discussed with the United States of America.

Belgium
France
Great Britain
Italy
Japan
Portugal

LEON DELACROIX
A. MILLERAND
D. LLOYD GEORGE
C. SFORZA
S. CHINDA
AFFONSO COSTA

SPA, July 16, 1920.

462.00 R 29/284 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 2, 1920—4 p.m.

[Received August 3—10:08 p.m.]

1491. B-182 for Department and Davis. Referring to my 181, summary of inter-Allied percentage agreement.⁷⁶

1st. Note their embarrassment in trying to make arrangements which really change the treaty. Without admitting this to be a fact article 3 of agreement for instance contemplates fixation of German indemnity debt without accounting contemplated by treaty, also every one knows contemplates fixing amount much below figure which treaty contemplates but language ignores these facts partly because of French emphatic prejudice against treaty change, also partly because none of the premiers wish to refer to parliaments in the manner legally necessary to amend the treaty. On question of indemnity figure, particularly any indemnity to which Germany may agree, I should raise no objection unless otherwise instructed. If they cannot reach necessary result without playing ostrich I will join the game.

2d. Their shipping arrangement, also many details of proposed accounting, are before us primarily on England's anxiety not to get into position where because she has received in reparation more than her percentage, she will have to pay cash to Reparation Commission.

3d. Provision giving proceeds of dyes and chemical drugs to Belgium is understood by Belgium to mean that all countries are hereafter to pay cash. I was extremely glad I was able, under your authorization, to tell other delegates before notified of this arrangement that United States was preparing voluntarily to offer to pay cash for dyes.

4th. Have already cabled position I took formally at Spa, and which have since repeated, that Commission could not accept instructions as to valuation but was acting in judicial capacity under obligation give full credit to Germany under terms of treaty. This applies to ship valuations, also property handed over as penalty for Scapa Flow sinkings, also naval material, legal service having advised Germany entitled to credit for last two categories. Dubois,⁷⁷ also probably others of Commission, agree my principle and I got impression they personally very glad have me take strong stand immediately on this point. One delegate who has strong personal

⁷⁶ Not printed; agreement printed in full, *supra*.

⁷⁷ Louis Dubois, French representative on the Reparation Commission, following the resignation of M. Poincaré on May 19, 1920.

opinion as to unfairness [of] valuation arrangements, both to Germany and to other powers, holds at same time view that treaty may be construed to effect that delegates not acting in judicial capacity but as agents of and subject to instructions of the Governments. So while willing vote to approve agreement he stated he would not do so without making clear that he was acting under instructions not expressing his personal conviction.

5th. While I have been unequivocal in my statements on credits and valuation I have told them I did not expect the matter to become serious because methods of avoiding difficulty so obvious. For instance, agreement by Germany to these credits and valuations or agreement fixing amount to be paid by Germany without reference to deliveries in kind so that there would be no need of valuing deliveries except as between the Allies or agreement that while this method of accounting certainly applies between Allie[s] it should not affect Reparation Commission accounts with Germany, but if they do not adopt some such a proposition my position is clear and without embarrassment except to them.

6th. Provision with respect to Belgian prize court cases illustrates again haste in drafting agreement. Nothing provided with respect to credit to Germany for these ships which is obviously necessary if Allie[s] do not recognize decisions; also amusing to find that two of these Belgian ships are owned in northern Schleswig zone so that probably Allies will not get these two ships although by agreement they are to give full tonnage to Belgium.

7th. You will see that the expense of armies of occupation is on their minds. It ought to be for every cent comes out of reparation. Their decision[s] regarding this matter seem to me of no legal importance from United States point of view for we are not party to them or to the treaty and our rights depend on arrangements prior to treaty and cannot be disturbed by what they do. We have also many means of bringing pressure to bear, if necessary. The last thing I expect is that they will attempt to invade our legal rights in this regard but my personal opinion is that this question of our army expense ought to be taken up immediately by proper authorities and discussed frankly, informally and quietly. Very likely it is already being done but if not we are getting rapidly into a position where whatever our rights we shall find it presently difficult to get the money, perhaps because it is not there, more likely because we should be ashamed to be seen carrying it away. They know our position, that if they want our troops they must be paid for. This is careful matter of record before Reparation Commission and in all other appropriate places, but Germany is the only party liable and Germany is legally mortgaged to signatories of the treaty without, so far as I know,

our having any understanding with these powers that our claims for army costs shall have same protection as theirs. Commission has so far dealt with our army costs exactly same costs other armies without any comment on fact that our legal position is different from positions of other powers, but when Commission begins getting money from Germany on account of army costs and discusses distribution this money they will almost inevitably be driven to analyze legal situation which will be still further complicated by these recent agreements between themselves. Result would probably be merely that Commission would ask Powers what they wanted done and Powers would then take up the matter with United States, but for reasons stated above these questions should not be allowed to drag. We ought to clarify legal situation, determine just when and how we are to get our money. Probably ought arrange in manner least embarrassing to them and ourselves [to] reduce our forces very greatly. Will add incidentally my guess that they will try to get us to pay army costs out of balances on ships and Alien Custodian property. All this with appeal for advice on subject, not my business and about which I am ignorant.

Boyden
HARRISON

763.72119/10266 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 5, 1920—7 p.m.

[Received August 6—12:59 p.m.]

1507. B-189. For Davis.

1st. In my no. B-173⁷⁶ regarding coal protocol, second annex, Germany's assent, find this is mistake so now necessary for Powers, or Commission acting as agent for Powers, obtain Germany's assent to second annex, also third annex or memorandum (see paragraph first my B-173), also amendment to Spa protocol, arranged between Lloyd George and Millerand at last conference Boulogne. This last protocol still requires assent of Italy and Belgium but this assent may be assumed.

[2d.] Boulogne protocol requests Reparation Commission to [assure] execution of all details under Spa coal protocol including advances by Powers; provides also for determination by Commission of amount of advances which necessarily depend upon amount of coal delivered and deals with certain practical details in this connection; provides also for issue of bonds by Germany which was not mentioned in Spa protocol. First reading give[s] impression Allies

⁷⁶ *Ante*, 403.

mean to make Germany issue bonds which they will negotiate either with or without their own indorsement in order to raise funds with which to make advances. Such protocol would seem substantial change in Spa protocol to disadvantage Germany but Millerand explains to Dubois Powers intend to make advances exactly on the lines of Spa protocol and merely expect Germany to deliver bonds when and as advances made, also in informal discussion seems expected that Allies will divide bonds in proportion to advances and each Power will be at liberty to negotiate bonds or not at its own pleasure. Apparently England has no present intention negotiate its share of bonds.

3d. Jurisdiction given to Commission by Boulogne protocol is direct result of French effort bring Reparation Commission close to proceedings and enhance prestige. Bond proposition interpreted on lines above stated although not specifically provided in Spa protocol is natural corollary to advances and ought not to arouse objection on the part of Germany. Provision in second annex for repayment of advances May 1, 1921, with 6 per cent interest also natural corollary of Spa protocol combined with article 235 treaty. Germany[']s ready acquiescence these details however probably dependent on interpretation of protocol affecting method of repayment of advances. My inclination is to interpret protocol to mean that Germany is free to utilize for payment of advances any assets available including assets remaining to be delivered under annex article 8. Some members of the Commission inclined to believe that coal deliveries even will apply against advances but this seems to be questionable. Either interpretation has substantial effect of paying advances out of assets which Germany necessarily must deliver, only result unfavorable to Germany being that such payments will not be credited on reparations. Assuming any such interpretation no occasion Germany worry about details proposed but such assumption must not be regarded as final because evidently quite doubtful if Powers in signing protocol realized what language meant when applied to treaty.

4. Never have thought priority provisions of protocol serious from United States point of view. Foregoing possibilities make them seem even less important. Nevertheless in view of fact that discussion of provisions brought up questions relating to priority and to army costs I thought desirable place formal statement on record with commission. I quote this statement in succeeding paragraph.

5th. "In view of the arrangements between the Powers concerned as to the priority to be afforded their advances under the terms of the Spa protocol, the United States Unofficial Delegate makes no protest or reserve, merely pointing out that the [*these*] decisions to

which the United States is not a party do not [affect] the position of the United States. With respect to the course [*costs*] of the United States army of occupation he adds that the United States obviously understands and expects that it will be reimbursed in cash for the actual cost and that it will be notified at once if its army is not wanted on these terms. In this connection he refers to the letter from the American Delegation to the O[rganization] C[ommittee,] R[eparation] C[ommission], dated November 28, 1919, with its accompanying memorandum." "7

[6th.] Reference in the last sentence foregoing statement to memorandum regarding costs United States army of occupation submitted to Supreme Council by White and placed on record with Reparation Commission by Rathbone as stated on the date mentioned.

7th. Commission ordered my statement made part of the record leaving to individual delegates question of communicating it to their respective governments. Chairman suggested that doubtless the United States Government would itself bring subject to attention other governments. I added that inter-Allied percentage agreement showed it offered to discuss army costs question with the United States and this would afford opportunity for discussion whole matter. Boyden.

HARRISON

862.85/1214½ : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 13, 1920—1 p.m.

[Received August 14—8:23 a.m.]

1541. B-200. For the Department and Davis.

Maritime representatives are recommending to Department [*Commission?*] agreement [proposing] to entrust sale to Lord Inchcape, who acted for British Government in sales standard ships constructed on Government commission method [during war,] for selling British [*German*] ships to British nationals for the purpose of carrying out provisions Spa inter-Allied [agreement]. Inchcape evidently man high standing, sees no objection to proposal published here. Reparation Commission follows provisions Spa agreement. Unless otherwise instructed I shall take position that we have no objection to any method of sale which interested powers see fit to recommend but that we decline absolutely to approve this method of valuation of ships for trade [*treaty*] purposes and shall regard results of sale merely as evidence which may or may not have some bearing on the question of valuation under treaty. Boyden.

HARRISON

" Not printed.

462.00 B 29/296 : Telegram

The Chargé in France (Harrison) to the Secretary of State

PARIS, August 14, 1920—6 p.m.

[Received 9:27 p.m.]

1556. B-205 for Davis.

1st. Commission yesterday approved in writing British suggestion we appoint American chairman committee for distribution Upper Silesian coal. Members of the committee informally urged strongly we should assist by doing this. We have championed principle of treating fairly central European countries dependent for coal on this area, therefore, will weaken our position somewhat if we fail accept this opportunity to show responsibility. Necessity not quite so strong as stated my B-198⁷⁸ because committee yesterday decided appoint one Polish representative which assures Poland having voice on committee. At present this committee controlled by Reparation Commission so we can do something in Paris.

2d. Chief objections to appointment are: First, fact that coal question likely lead to frequent clashes of interest among all parties, Allies, German[y], outside powers, and American chairman to be useful must take sides so might arouse prejudice. My impression opportunity for useful influence sufficient balance this risk. Second disadvantage lies in fact that now understood that committee sit in Belgium and while separate will be composed in part of same individuals who constitute commission appointed under Spa coal protocol to supervise distribution of German coal. While American member would not participate in this other commission it would be difficult for outsiders to discriminate. As already cabled we do not propose appoint member this other commission under any circumstances because its conclusions may under terms coal protocol lead to occupation.

3d. If you have no objection in principle to American serving as chairman Upper Silesian Commission I should nevertheless consult Dresel's desire not have American on commission in Germany. I do not share his views but in connection with any commission sitting in Belgium, should be adverse to acting contrary to them. Boyden.

HARRISON

862.85/1215 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, August 18, 1920—4 p.m.

[Received 5:22 p.m.]

1573. B-209 for Davis. Reference B-200 of August 13th.

1st. Commission today, making all possible reserves with respect to inter-Allied Spa percentage agreement especially as valuation to

⁷⁸ Not printed.

be credited Germany or debited England, accepted proposal suggested by England for sale England's share of ships to British nationals under direction Lord Inchcape under supervision of Maritime Service, sale to be made for account of England. Italy abstained from voting on theory that ships ought to be sold for account of Reparation Commission in order to carry out properly inter-Allied Spa agreement. General consideration of the Spa agreement fixed for Tuesday. Boyden.

WALLACE

462.00 R 29/334 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, August 27, 1920—noon.

[Received 8:35 p.m.]

1616. B-220 for Davis.

Inter-Allied Spa percentage agreement discussion was fixed for this morning. Before meeting I communicated informally to delegates protest which I proposed to place on record. In view of this proposed protest delegates decided postpone discussion in order communicate protest to their Governments. Postponed probably one week. Please advise any suggestions. Following copy of proposed protest:

"In connection with the inter-Allied agreement signed at Spa (annex 345) which has been presented to the Reparation Commission, the United States Unofficial Delegate desires to place on record a formal reserve with respect to the rights of the United States, *id est*, which, either in case of ratification or non-ratification of the treaties or any portion of them, may be affected thereby. Subject to the foregoing reserve he states further that certain indications of the agreement constrain him to decline to assent thereto and even to protest against its acceptance by the Commission.

In explanation of the foregoing and without attempting to make a complete statement of objections he expresses opinion that:

1. The agreement is in direct conflict with the provisions of the treaty with Germany. In view of the emphasis, which both at the beginning and since the end of the war, has been placed on Germany's failure to respect her treaty obligations, any tendency in this same direction shown by Germany's critics needs no comment.

2. The influence which such an agreement inevitably exercises upon the personal opinion of the members of the Commission is in itself objectionable. If to that influence is added the pressure of direct instructions to the delegates, the status of the Commission under the treaty is threatened. It is no longer a judicial body, it has become a mere registering machine controlled by governments in their own interests.

3. Specifically, the provisions with respect to ex-enemy ships prescribe an arbitrary method of valuation which has no relation to established principles, either of law or equity, which conflict[s] with the treaty provisions and which is unfair to the ex-enemy powers.

4. The provisions of articles 6, 7 and 8 denying to Germany credit for certain property and for the use of certain ships are attempts to deprive the Commission [of] jurisdiction in matters of which the treaty makes the Commission the sole judge. The provisions of articles 7 and 8 are in direct conflict with opinions rendered by our legal service.

The specific objections to which I have called attention would no longer exist if the assent of ex-enemy countries interested were obtained or if arrangements were made with ex-enemy countries interested such that future indemnity payments would have no relation to the deliveries in question or if the provisions of the inter-Allied agreement were treated as arrangements for inter-Allied accounting and not as changes in the treaty provisions. I express the hope that some one of these solutions may be adopted.

To avoid misunderstanding the undersigned will add that there can be no objection in principle to treaty changes which in the light of experience commend themselves to all parties concerned. He is strongly of opinion that experience has shown that important changes are desirable particularly from the point of view of those powers most interested in realizing substantial indemnity from Germany."

Boyden
WALLACE

862.85/1215 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, August 28, 1920—6 p.m.

1420. For Boyden B-93.

Your B-209, August 18.

1. There should be clear, formal recognition that evaluation of ex-German ships is under exclusive jurisdiction of Reparation Commission. No agreement instructing Inchcape to dispose of ships allotted to England should be allowed to compromise this principle.

2. After principle is formally accepted that Reparation Commission shall evaluate ships as of the date on which they were delivered by Germany, Department recognizes that respective Governments should be permitted to dispose of ships allotted to them as they see fit. Insistence on valuation of ships by Commission before permitting them to be sold might involve unnecessary delay.

3. Position of Italy that ships should be sold for account of Reparation Commission does not seem to be necessary, though it might be

wise to have on record statement that various governments will accept valuations of Commission and become responsible for values of all ships sold or held when Commission fixes such values.

DAVIS

862.85/1214½ : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, August 31, 1920—3 p.m.

1423. B-100. For Boyden.

Your B-200, August 13.

Department approves your position. Emphasize that valuation of ships is under jurisdiction of Reparation Commission and that Germany must receive full credit for value of ships as of date when delivered to Allies.

DAVIS

462.00 R 29/290 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, August 31, 1920—4 p.m.

1424. B-101. For Boyden.

Your B-198, August 13,⁷⁹ and B-205, August 14.

1. This Government is very anxious to assist in any practical way in accomplishing solution of European economic problems. Objections which you outline are weighty, and in view of German attitude toward Hines⁸⁰ and our anomalous position as non-signatories of Treaty we fear that probability of complications to which we should be exposed might be unjustifiably great. In addition, we have no outstandingly competent man available for such a position.

2. Principle which seems sound to Department is to have American representative on commissions which determine policy and limit or define application of Treaty. Since we are not signatories we do not desire official representation on administrative bodies which merely carry out stipulations of Treaty.⁸¹

3. In your capacity as unofficial member of Reparation Commission you are in position to guard interests of weaker nations in competition for Silesian coal. Department believes that it would be wise if

⁷⁹ Not printed.

⁸⁰ See pp. 263 ff.

⁸¹ Boyden reported, Sept. 6: "In light of your B-101 will not make appointment to Silesian Commission." (File no. 462.00 R 29/312.)

possible to have Commission formally go on record as opposing the establishment of any monopolies or permanent systems of rationing which might prejudice the just claims of certain nations to adequate supplies of coal.

4. From this distance it appears that more intelligent and sympathetic administration of Silesian coal problems could be secured if coal commission sat in Silesia rather than in Belgium. There should also be clear line of demarcation between commission to administer coal deliveries by Germany to Allies and commission to deal with broader problems of distribution of Silesian coal. With former Commission the United States should not associate itself.

DAVIS

462.00 R 29/334 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, August 31, 1920—7 p.m.

1429. For Boyden. B-102.

Your B-220, August 27.

1. Department suggests following revision of your proposed protest regarding inter-Allied Spa percentage arrangement. There are two principal reasons for the changes. First: We cannot consistently take a position that is opposed to all changes in the treaty as we have already agreed to and even encouraged certain changes in it. Without our approval such changes should of course not be made. Second: Wilson-Lloyd George Agreement regarding shipping and certain other understandings of Allied and Associated Governments represented on Council of Ambassadors, make necessary a qualification of the statement that the Reparation Commission is an entirely independent judicial body.

2. Proposed redraft is:⁸² "In connection with the inter-Allied agreement signed at Spa (Annex 345), which has been presented to the Reparation Commission, the United States unofficial delegate desires to place on record a formal reserve with respect to the rights and interests or claims of the United States, *id est*, which, either in case of ratification or non-ratification of the Treaties or any portion of them, may be affected thereby. Subject to the foregoing reserve he states further that certain indications of the agreement constrain him to decline to assent thereto and even to protest against its acceptance by the Commission. In explanation of the foregoing and with-

⁸² The following quoted section is not paraphrased.

out attempting to make a complete statement of objections he desires to point out: First: Parts of the agreement are in his opinion in conflict with the provisions of the treaty with Germany. In view of the emphasis that the Allied Powers, both at the beginning and since the end of the war, have placed on Germany's failure to respect her treaty obligations, any tendency on the part of the Allied Powers materially to alter the Treaty without obtaining the consent of Germany would undoubtedly weaken their position, particularly if such changes were made without the complete concurrence of all the principal Allied and Associated Powers. Second: Parts of the agreement limit certain judicial and administrative powers entrusted to the Reparation Commission by the Treaty. Such powers were undoubtedly agreed to by Germany and by the Allied and Associated Governments in reliance on the purport of the Treaty that the decisions of the Commission, when they affected the rights of Germany or of the lesser Allied and Associated Powers, would be based on independent judgment, unprejudiced by special interests of the Principal Powers. The United States has emphasized the necessity of preserving the independence and prestige of the Commission for this very purpose, believing it an essential factor in the establishment of a permanent peace and a just administration of the Treaty. The influence which such limitations inevitably exercise upon the personal opinion of the members of the Commission is in itself objectionable. If to that influence is added the pressure of direct instructions to the delegates, the status of the Commission under the Treaty is threatened. It is no longer a judicial body, it has become a mere registering machine controlled by certain governments in their own interests. Specifically, the provisions with respect to ex-enemy ships prescribe an arbitrary method of valuation which conflicts with the Treaty provisions, is unfair to ex-enemy powers, and has no relation to established principles either of law or equity on which the decisions of the Reparation Commission should in general be based. The provisions of Articles 6, 7 and 8, denying to Germany credit for certain property and for the use of certain ships, attempt to deprive the Commission of jurisdiction in matters over which the Treaty makes the Commission the sole judge. The provisions of Articles 7 and 8 are in direct conflict with opinions rendered by its Legal Service."

3. Department approves last two paragraphs of your telegram, but believes these statements should be oral rather than written. It should also be pointed out that before making material changes in the treaty the consent of this Government, as well as of ex-enemy countries, should be obtained.

DAVIS

763.72119/10211 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, September 1, 1920—1 p.m.

1436. B-103. For Boyden.

Your B-173, July 29, 3 p.m.

1. First part, paragraphs 2 and 6. Department in harmony with principle of cash premium and coal credits but believes that no restrictions should be placed on expenditure of these sums by Germany. On proper occasion you might point out that restrictions would lessen economic and political advantage of premium and loan to Germany and would thus imperil beneficial results desired by Allies.⁸³

2. Second part, paragraph 3. Department desires full information about any trade agreements or advantages, about manner in which credits will be put at disposal of Germany, about kinds and quantities of supplies Germany will need and where and how she intends to secure them.

3. First part, paragraph 3. Your judgment approved, and no American representative should be appointed on commission to distribute German coal.

4. First part, paragraph 4. The Department offers no objection to agreement for control of Upper Silesian coal. But improper application of the principle might necessitate withdrawal of support. The United States has direct interest in establishment of stable economic conditions in Central Europe, a desideratum closely linked with equitable distribution of Silesian coal. Department believes that Germany should be actively and adequately represented on commission to supervise distribution. In view of abnormal conditions a temporary system of allocating specific amounts of coal to various countries may be necessary. You are right in insisting that Silesian coal arrangement must take account of pre-war distribution. Reparation Commission should closely supervise administrative body entrusted with distribution, you can thus assure yourself that substantial justice is done to various claimants for Silesian coal. Period of artificial control should be short as possible and administrative machinery for distribution should be along broad general principles

⁸³ Boyden reported, Sept. 14: "Commission accepted principle no restriction Germany's use of advances except used only for food, raw materials." (File no. 763.72119/10414.)

rather than according to detailed and rigid rules of procedure which are often wanted by French. Attitude of United States should be placed on record that systems of rationing and artificial control are in general disapproved and, though convincing reasons may exist for permitting temporary restrictions, free play of economic forces should be recognized as normal and that systems of artificial control are only legitimate if and as long as they are contributing toward establishment of normal conditions. While governments continue to control distribution friction is bound to continue.

5. First part, paragraph 7. There must be no occupation of additional German territory without unanimous agreement of the Allied and Associated Powers that failure on Germany's part to meet coal obligations has been willful.

6. Why did Great Britain assume 24 per cent of coal credits and express willingness to take up larger share? We surmise that it is connected with Britain's desire to escape payment of cash to Reparation Commission on May 1, 1921.

7. Question could properly be raised why Allies charge Germany 6 per cent on coal advances and charge themselves 5 per cent on sums they receive in excess of proper reparation quotas.

8. Second part, paragraph 3. Since Treaty does not specify relative priority of Armistice and Treaty charges, it should be distinctly understood that United States claims against Germany rank on equality with those of Allies. Extreme care should be taken not to indicate by implication waiver of rights under treaty pending ratification or other arrangement or that our rights depend only on Armistice rather than on Treaty. Ratification of Treaty would merely limit our rights to terms of Treaty. In view of our services as one of co-belligerents, it must be considered that Treaty provisions were formulated for our benefit as well as for benefit of Allies, and we have moral and equitable claims which cannot be waived and should not be ignored when dealing with Germany's assets. Department feels that there has lately been tendency to neglect equitable claims of United States against enemy powers.

9. Second part, paragraph 4. This Government cannot even discuss reducing costs of army of occupation to a uniform basis. During the peace negotiations the question was fully considered and it was clearly understood and definitely agreed that the only basis of settlement acceptable to the United States is the payment of all actual expenses of American troops in Germany.

DAVIS

462.00 R 29/282 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, September 1, 1920—2 p.m.

1437. For Boyden. B-104.

Your B-181, August 1.⁸⁴

1. Article 3. Are loans for internal requirements of Germany same as coal credits? If not, what does expression signify, what are plans for permitting such loans and under what conditions? As to fixing a definite capital sum to be paid by Germany, Department approves of plan to leave this to premiers. At your discretion it might be wise to point out that in determining this sum Reparation Commission's judgment should be sought and utilized. Commission is body which should have fullest information on sum practicable to demand from Germany. It would seem advisable that Commission and not premiers should fix annuities and all other questions of administration. Allied and Associated Powers as whole agreed to delegate fixation of reparation sum to Principal Powers of which United States is one. Present action by Allied Powers affecting Treaty must be taken into account on final ratification by the United States. It may have an important effect. You should exert every effort to prevent creation of precedent of not consulting us on all questions which involve our rights.

2. Article 4. As matter of policy, when Reparation Commission begins to enter debits and credits on its books under this article endeavor where possible to have accounts opened for United States, particularly in regard to costs of army of occupation. This would greatly facilitate action if and when ratification takes place, and arrangements can easily be made to prevent causing thereby difficulties to Allied Powers. This Government is also interested that Germany should receive due credit for all goods and services accounted for under this article. In your opinion will any cash be paid to Commission under sections 2, 3 and 4? Also is interest on contingent reserves to be paid in cash to Commission?

3. Article 5. Belgium's claim that her priorities take precedence over costs of army of occupation does not appear to be valid, but will be glad to have your views.

4. Article 6. Attitude of this Government is that Germany must be credited with full value of ships as of date they were surrendered to Allied and Associated Powers rather than with price they

⁸⁴ Not printed; this telegram contained summary of inter-Allied percentage agreement which is printed in full on p. 406.

may bring on May 1, 1921, after values of ships have notably declined. While procedure contemplated by Allies would be strictly in accord with financial interests of this Government, under Lloyd George agreement, it seems unjust to Germany. Moreover, as method of valuation was decided upon by premiers whereas Reparation Commission is charged with such duties, a distinct change in Treaty is involved. This is another instance of invading the rights of the Commission and virtually changing Treaty without consultation with us. Our position is not that Treaty should not be modified by interpretations which make it workable, but such modifications, when involving reparation questions, should be decided finally by Reparation Commission upon which you represent this Government. It should be constantly kept in mind that if and when we ratify we shall have to object to every change, as the Executive cannot waive Treaty stipulations without authorization by Congress. Therefore it is desirable that all necessary modifications be accomplished before we become parties to Treaty.

5. Article 7. It seems to Department that premiers have no jurisdiction over question whether credit should be given Germany for floating docks, et cetera. Department approves your position at Spa as stated in your B-182, August 2, paragraph 4, and agrees with opinion of Legal Service that credit should be allowed Germany for these items.

DAVIS

763.72119/10266 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, September 1, 1920—3 p.m.

1438. B-105. For Boyden.

Your B-189, August 5.

1. Paragraph 2. Department wishes to be kept fully informed in regard to bonds issued by Germany in connection with coal advances. Information is especially desired on plans to guarantee and negotiate these bonds. Why does England intend to hold her share? To the extent that these bonds shall be repaid by Germany before May 1, 1921, amount should be deducted from twenty milliards stipulated in Article 235. Consistent attitude of this Government should be that Germany cannot be called upon to pay total of more than this amount under any circumstances.

2. Paragraph 3. Department agrees that Germany is free to utilize for payment of advances any assets available. With regard to implication in your formal statement that position of United States is

not affected by terms of Spa protocol, our views are fully stated in our answer to your B182 and B173.⁸⁵

DAVIS

462.00 R 29/284 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, September 1, 1920—4 p.m.

1440. B-107. For Boyden.

Your B-182, August 2.

1. Paragraph 5. Your position is correct and should be consistently maintained. There is danger that proposed scheme of accounting among Allies will not credit Germany with full value for deliveries under Article 235.

2. Paragraph 7. Since Armistice stipulated no order of priorities of charges against Germany while Treaty to which we are signatories does specify such priorities, our claims are in peculiar legal situation and may be considered as held in abeyance for the present through our non-ratification of Treaty. We distinctly have not renounced any rights we may have under Treaty and moral and equitable obligation is clear that Allies should recognize without question equality of our claims against Germany in view of our services as one of co-belligerents. It was action of all belligerents, including United States, which rendered possible benefits under Treaty, and Treaty clearly contemplates that United States shall share these benefits. Expressed or implied admission that we have no rights under Treaty should be studiously avoided, for situation might arise which would make it desirable to assert rights under Treaty, particularly in those stipulations which specifically mention United States as a beneficiary. However, the delicate and dangerous issues as to what our rights may be should not be raised without consultation with Department and until absolutely necessary. Meanwhile you should proceed as in past to act on assumption that we are in same position as Allies in regard to assets of Germany. The Department does not entirely subscribe to your views that we might be embarrassed in accepting priority payment of our army costs. Our position was so well understood that other governments can hardly at this late date begin to imply that such costs should not have priority or be paid in full out of funds contributed by Germany. As long as our troops are retained at Allies tacit request, this Government must maintain right to be reimbursed in full for their expenses. Idea should be discarded that balance due on ex-German ships and balances in hands of Alien

⁸⁵ *Ante*, pp. 415 and 403, respectively.

Property Custodian will be available for army costs. All of this property is subject to control by Congress and no action can be taken until Congress provides legislation.

3. Values and properties delivered under Article 235 should be ample to pay costs of army, and position of Department is that such values must be applied to army costs. Will you send estimate of values already delivered by Germany under Article 235 and give your views as to what Germany is likely to pay towards twenty milliards by May 1, 1921.

DAVIS

862.85/1217 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 3, 1920—4 p.m.

[Received 6:02 p.m.]

1647. B-229 for Davis. Your B-93, Department's 1420.⁸⁶

1st. Action of Commission approval Inchcape sale of ships conforms to your views. Sale is for account England, right of Commission to make its own valuation reserved. This took place before Spa agreement considered by Commission. Italy's insistence that sale should be for account Commission instead of for account England was attempt to force Commission to accept for all purposes including credit to Germany method of valuation expressed in Spa inter-Allied percentage agreement.

WALLACE

462.00 R 29/335 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 9, 1920—3 p.m.

[Received 7:28 p.m.]

1676. B-238 for Davis. Your B-102, Department's 1429, August 31st.

1st. Proposed protest working so well ought not to be changed unless absolutely necessary. Also has been discussed by delegates with governments, therefore changes would attract special attention, be unduly emphasized. Also my purpose is definite, namely, to write something which will make Allies hate thought of possible publication. This makes desirable blunt statements without attempt absolute completeness or delicate shading.

⁸⁶ *Ante*, p. 422.

2d. Broad language at beginning reserves United States rights in every contingency. Not desirable attempt specification though later may be desirable make some specific statements. Will discuss this later cables. Protest states specifically we believe in changing treaty if necessary but by proper methods. Qualification my statements of judicial nature of Commission best obtained by slight change making last part article 2 read "status of the Commission which under the treaty is intended to await [*resemble*] in certain respects a judicial body is threatened. It is no longer a judicial body; it has become".

3d. Last two paragraphs do not prejudice United States position, first, because of broad reservation at the beginning [of] protest, second, because they in themselves constitute specific assent United States of which assent I had no doubt and which confirmed by your cable. Think important include them in protest itself, first, because emphasis on fact that Spa agreement constitutes change in treaty makes Powers contemplate possible publication without pleasure, also worth while take opportunity hint strongly United States willingness go on record concerning fixation of indemnity.

4. English Delegation tell me their Government since seeing proposed protest takes position Spa agreement effective only as regards signers, not effective against Germany until accepted by Germany. This thought entirely new to them as well as to me and contrary to language of agreement. They seem personally grateful for protest.

5. In view of foregoing emphasis on possible publication will add have no intention of using publicity. If developments show necessity would of course consult Department. But I want protest in such form that they will worry some about possible appearance in print.

6. Since preparing foregoing cable have received this morning from British Delegation following suggestion for resolution to be passed by Commission on presentation inter-Allied Spa percentage agreement.

"The Reparation Commission takes note of the agreement arrived at between the Governments of Belgium, France, Great Britain, Italy, Japan, and Portugal at Spa on the 16th July, 1920, with regard to the distribution of receipts from Germany under the reparation provisions of the Treaty of Versailles, methods of valuation for purposes of the accounts as between those Governments and procedure in connection with the settlement of such accounts, and it will cause the necessary steps to be taken to give effect thereto, due regard being paid to the rights and interests of other Powers signatory to the Treaty of Versailles which are not parties to the above mentioned agreement."

7. This is merely suggestion intended to express thought that Spa agreement is only bookkeeping arrangement between Allies parties to agreement which is proper solution. I understand Dubois has expressed acquiescence subject to further reflection, also English Delegates [expect] suggestion to be satisfactory to English Government. I should accept foregoing language possibly repeating what has been already said at Commission meetings that agreement can only affect rights of parties who actually sign. Boyden.

WALLACE

462.00 R 29/317 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 10, 1920—4 p.m.

[Received September 11—2:47 a.m.]

1681. B-239 for Davis.

1st. Delacroix ⁸⁶ has apparently secured assent France to plan submitting German Spa proposals to Reparation Commission instead of proposed Geneva conference. This suggestion comes from Theunis who is now trying secure English assent through Bradbury. While as already cabled my preference would be for different method I have urged Bradbury to help obtain English approval on theory better help along the lines which meet Belgian and French wishes than try to force them against their will. My feeling is that if we can ever get hold of the matter Theunis, Bradbury and I can either get results through Commission or at worst can make some majority recommendation which will attract public attention and make task of premiers easier if they have to tackle it again and again. Italy will probably help. In private talk Dubois has agreed with principles about indemnity which I have stated in previous cables and I should hope to get agreement on principles before talking figures. If for instance we could send back to premiers unanimous recommendations that definite figure should be substituted for long accounting contemplated by treaty and principle of economic capacity substituted for treaty principles based on damages and that Reparation Commission or some other expert body should be given authority to settle figure on that basis, it would be hard for French Parliament find any plausible excuse for objection. If can ever get principles established figures will inevitably follow.

Boyden
WALLACE

⁸⁶ Leon Delacroix, Belgian Prime Minister, Nov. 1918 to Nov. 1920.

462.00 R 29/319 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 10, 1920—5 p.m.

[Received September 11—11:05 a.m.]

1682. B-240 for Davis. Your B-107, Department's 1440, September 1.

1st. Note all you say in this and preceding recent cables regarding position United States pending decision on treaty ratification; also after ratification or refusal to ratify. Peculiar [*sic*] is approved. Your use of adjective delicate is also approved. Shall try to cable you later analysis situation for comparison your views and for your suggestions. At present I derive more pleasure from occasionally reserving all rights United States than I should from attempting to state them myself. Such statement so far successfully avoided.

2d. What are treaty stipulations to which you refer which specifically mention United States as beneficiary?

3d. Recognize fully clear understanding about army costs also legal rights. Nevertheless will readily accept bets on question your embarrassment when you reach actual point of taking three or four hundred million dollars or more cash out of Germany or Allies. For this reason still emphasize desirability stopping further increase this liability if possible.

4th. Powers understand fully Congress must decide about ship and Alien Custodian balances but this will not prevent either them or Germany from [gazing] longingly at this tempting fruit.

5th. Germany announces vociferously at regular intervals she has already paid twenty milliards. Bradbury expressed opinion she had perhaps paid six to eight. Nobody knows. My guess of no value. Seems now quite well accepted presumption everything must be credited under 235. Boyden.

WALLACE

462.00 R 29/318 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 10 1920—6 p.m.

[Received September 11—2:26 a.m.]

1683. B-241 for Davis. Your B-104.⁸⁵

1st. Language about internal requirements has no special significance. Probably had in mind food and raw materials. In conversation delegates mentioned necessity of interesting Germany in any loan project by allowing her keep part of proceeds.

⁸⁵Ante, p. 428.

2d. Seems probable Commission accounting service must shortly start accounts of army costs regardless of article 3 [4], Spa agreement, which relates particularly to situation May 1, 1921. This article does not seem to affect credits to Germany. Agreement has not yet been discussed. Cannot be sure I understand effect these provisions but at present seem to me to mean no cash payments of any kind, not even interest to Commission by virtue of these provisions of article 3 [4] until short paragraph beginning "any balance not required for above purpose shall be paid to the Reparation Commission" takes effect. Looks like very remote possibility and everybody understands one purpose agreement was to avoid necessity of paying back cash if value of receipts by any power on account reparation exceeded its percentage of total receipts up to given date.

3d. Agreement does not seem give Belgium priority over army costs. Theunis originally told me this was error in hasty drafting and would be readily rectified. But British clearly think otherwise and Theunis now says language inserting [*inserted*] late draft without being called to Belgium's attention and in confusion of last moments they failed notice change. Assume from foregoing there [*sic*] will be thrashed out on this point.

4th. Note rest of cable.

WALLACE

462.00 R 29/336 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 11, 1920—9 p.m.

[Received September 11—4:22 p.m.]

1685. B-242 for Davis, my B-238.⁵⁶

Bradbury formula brought up rather unexpectedly to-day. Was accepted by everyone after a specific explanation by Dubois and Bradbury that all rights of powers not parties were reserved and arrangements of agreement were applicable only to powers which signed. Result entirely satisfactory. Dubois expressed to me his personal gratification at result my proposed protest which protest of course was not presented. Boyden.

WALLACE

462.00 R 29/337

The British Ambassador (Geddes) to the Secretary of State

WASHINGTON, September 13, 1920.

MY DEAR MR. SECRETARY: In accordance with the promise which I gave you yesterday, I send you, herewith, a short memorandum

⁵⁶ *Ante*, p. 431.

summarizing the position which has arisen with regard to the proposed conference at Geneva on September 24th.

Believe me [etc.]

A. C. GEDDES

[Enclosure]

The British Embassy to the Department of State

MEMORANDUM

The proposal that a Conference should be held at Geneva on September 24th with a view more particularly to arriving at a settlement of the question of the financial advances to be made to Germany by the Allies under the terms of the Spa Gold [Coal?] Agreement, was made by His Majesty's Government in accordance with the decision of the Spa Conference to refer the Reparation question to a Special Commission at Geneva which should consist of "two delegates from each Delegation".

While this proposal has been accepted by the Italian, Belgian and German Governments, the French Government, although prepared to be represented at this Conference on the same footing as His Majesty's Government, have declined to accept the proposed date on the ground that it is the same as that chosen for the Financial Conference at Brussels, which many of their delegates for Geneva would be obliged to attend.

In reply to representations, the French Government have amplified the grounds for their refusal as follows:

(1) Not only have they found it necessary, on technical grounds to select the same delegates for the Brussels and Geneva Conferences but, having regard to the nature of the agenda for both Conferences and the necessity for avoiding the slightest difference of policy or interpretation between the French Representatives, they consider it out of the question for the French Government to be represented otherwise than by the same delegates at the two meetings.

(2) They regard it as improbable that, in the present disposition of the German Government and in view of their evident desire to seek all possible opportunities of evading the obligations imposed by the Treaty of Versailles, any favourable result could be expected from discussion with their delegates at Geneva.

(3) They allege that the proposed Conference at Geneva is not regarded favourably by the United States Government or by the Belgian Government. They claim that the United States delegate on the Reparation Commission has already lodged a formal protest against the Allied Agreement arrived at at Spa on the ground that it is incompatible with the Versailles Treaty, while the Belgian Government are said to wish to act through the Reparation Com-

mission at Paris directly without the convocation of a Special Conference at a place so distant as Geneva. In addition to the above reasons the French Government deprecate the suggestion that any further action is necessary with regard to gold advances to Germany or that any undertaking on the subject has been given by the Reparation Commission to the German Government. Under existing arrangements the Germans receive advances in exchange for gold [*coal?*] and deposit bills in return, leaving the Reparation Commission only the details of execution to arrange.

His Majesty's Government desire to point out that the policy which the French are now proposing appears to run entirely contrary to that which the Allies have attempted to carry out since the date of the San Remo Conference, the essential point in which has been that German cooperation in the execution of the Treaty should be obtained so far as possible through direct communication between the German Government and the Allies. With this policy His Majesty's Government had always believed the United States Government to be in sympathy and they accordingly ask that some enquiry be made as to the reasons for the action of the American delegates on the Reparation Commission.

[WASHINGTON,] *September 13, 1920.*

462.00 R 29/337

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *September 23, 1920.*

MY DEAR MR. AMBASSADOR: In reply to your note of September 13, 1920, and the memorandum enclosed therewith, in regard to the Geneva Conference, I hasten to outline the position of this Government on the questions you were good enough to raise.

Very sincerely yours,

BAINBRIDGE COLBY

[Enclosure]

The Department of State to the British Embassy

MEMORANDUM

The Government of the United States has been under the impression that the proposed Conference at Geneva was for the purpose of fixing a specified capital sum which the Allied and Associated Powers would accept in liquidation of Germany's total financial obligation for reparations; to discuss further the question of finan-

cial advances to be made to Germany by the Allies in connection with the coal delivered from Germany; and also to consider other questions relating to reparations.

The Government of the United States is in entire harmony with fixing Germany's entire liability at a definite reasonable sum, which can no doubt be facilitated by direct contact and discussion with the Germans. While this Government is primarily convinced that the prestige and authority of the Reparations Commission should be scrupulously respected and maintained, it realizes that there may be certain political factors involved in reaching a constructive settlement of the reparations problem, which cannot be dealt with by the Reparations Commission.

It is fully recognized that under the terms of the Treaty the Reparation Commission is not authorized to fix a capital sum for reparation below the amount of the German liability as defined in the Treaty, though it would, no doubt, be wise to utilize the expert knowledge of the Commission in determining such a sum.

Apparently a misunderstanding in respect to the views of the Government of the United States has been created by the alleged formal protest of the unofficial American representative on the Reparations Commission, relative to the Allied Agreement concluded at Spa.

The Government of the United States holds the view that in so far as possible German cooperation in the execution of the Treaty should be obtained, and that this can no doubt be better accomplished through direct contact with the German Government.

When the impression became current that the Allied Premiers were to send to Geneva a commission of which the members of the Reparation Commission were not to be members, and that this commission at Geneva was expected to consider questions of the most fundamental importance in the reparation policy of the Allied and Associated Powers, this Government felt that the prestige of the Reparation Commission was in serious jeopardy.

The fear just outlined was explained to the American representatives in Paris and the importance of maintaining the dignity of the Reparation Commission was pointed out to them. The Department of State is not aware that any objection to the Geneva Conference has been made by these representatives. On the contrary they were informed that this Government was not only willing but hoped the Allied Premiers could arrive at an understanding for a fixation of Germany's total reparation obligations.

It does not appear that doubt as to the expediency of the methods of organizing the Geneva Conference can properly be construed

as opposition to cooperation between the German and Allied Governments in the execution of the Treaty. The minutes of the Reparation Commission show that from time to time German representatives are called into consultation with that body. The Council of Ambassadors has also recently made provision for personal relations with the German peace delegation in regard to questions arising under the Treaty. To this procedure the Government of the United States has not interposed the slightest objection.

If the purpose of the Geneva Conference is to discuss financial questions relating to advances to Germany under the Spa Coal Agreement, this Government, since it is not a party to that agreement, cannot express an opinion.

The unofficial American representative informally handed to his colleagues certain reservations which he proposed to make on the part of this Government in order that he might have the benefit of their comments before these representations should be entered formally on the records of the Commission. He proposed to present reservations in regard to those portions of the Allied Agreement concluded at Spa which seemed clearly to violate the terms of the Treaty and to invade the prerogatives that are specifically delegated to the Commission.

That His Majesty's Government recognized the pertinence of the proposed statements and the necessity for certain interpretative reservations in connection with the Allied Agreement as concluded at Spa, is evidenced by the fact that the British delegate embodied the substance of the American unofficial representative's comments in a resolution which he presented to the Reparation Commission and which, this Government is informed, was unanimously accepted by the Commission. The resolution reads approximately as follows:

"The Reparation Commission takes note of the agreement between Belgium, France, Great Britain, Italy, Japan and Portugal which was concluded at Spa on July 16, 1920, with regard to the distribution of receipts from Germany under the reparation clauses of the Treaty of Versailles, with regard to the methods of valuation for preparing the accounts as between those Governments, with regard to the procedure in the settlement of such accounts, and lastly with regard to indemnity claims and steps to be taken to give effect thereto, due regard being paid to the rights and interests of other powers signatory to the Treaty of Versailles, but which are not parties to the above-mentioned agreement."

In view of this action at the instance of the British delegate, of course the proposed reservations were not presented by the unofficial American representative.

[WASHINGTON,] *September 23, 1920.*

462.00 R 29/317: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, October 6, 1920—noon.

1541. For Boyden from Davis. B-134.

Transmit your B-239⁸⁶ and following despatch to London Embassy for verbal information of British Foreign Office.

With reference to your B-239 and letter of September 17,⁸⁷ I concur in your view that before attempting to make any further progress on settlement of reparation it is first necessary to agree upon the basic principles for settlement, namely, the substitution of a definite figure for the long accounting contemplated by Treaty and the fixing of a definite figure on economic capacity rather than on the amount of the damages. I also favor the strategy advocated by you, provided the British will concur. The British Ambassador first discussed the matter with me when the French Government attempted to use your protest regarding the Spa meeting as a pretext for preventing the Geneva meeting. The British evidently feel that if the French are not forced to carry out the Spa agreement it will take many months to regain the ground thus lost. The British Ambassador has suggested, therefore, that the Premiers should meet at Geneva as contemplated and, after dealing with the Spa agreement they might agree to refer the entire reparation question to the Reparation Commission with authority and instructions to deal with it on the principles indicated by you. In substance, the only difference in Geddes' plan and yours is for the Premiers to go through the formality of the meeting at Geneva and thus expedite the reference of the matter to the Reparation Commission, even recommending the principles on which the Commission should work, which would ultimately give more force to the action of the Commission. I am inclined to favor the suggestion of Geddes but am in favor of whichever plan will expedite solution of this matter and suggest that you use your judgment accordingly.

COLBY

462.00 R 29/384: Telegram

The Chargé in Great Britain (Wright) to the Secretary of State

[Paraphrase]

LONDON, October 19, 1920—2 p.m.

[Received 3:07 p.m.]

1535. For attention of Davis.

Communicated orally to Eyre Crowe of the Foreign Office substance of Boyden's B-239 of September 10 and your B-134 of October

⁸⁶ *Ante*, p. 433.⁸⁷ Letter of Sept. 17 not printed.

6 to Boyden. Our position appears understood and appreciated as it was quite frankly stated that without approval of British and ourselves nothing definite could be done and matter seems now to have narrowed down to constitution of delegation to preliminary conference. Have informed Boyden.

WRIGHT

462.00 R 29/390 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, November 18, 1920—6 p.m.

[Received November 19—10:47 a.m.]

1933. Referring to Franco-British negotiations regarding Geneva conference. Following communication was sent Thursday evening, November 11, to the British Ambassador by the Minister for Foreign Affairs, transmitted to London and approved by the British Government:

"His Excellency Lord Derby was good enough under date of November 5, 1920, to forward the British Government's answer to the French note of October 20.

The President of the Council highly appreciates the spirit of *entente* in which the British Government has adhered in general to the procedure proposed by the French Government. The different stages of the examination of the question of reparations henceforth will be as follows:

1. A meeting at Brussels of Allied technical experts sitting with German experts. The experts will report to their respective Governments and the minutes of their meeting will be communicated to the Reparation Commission.

2. A conference [of] Allied ministers will meet at Geneva after the plebiscite of Upper Silesia but at the latest during the first fortnight of February to discuss the question of reparations in its entirety (total amount of the debt, examination of Germany's capacity to pay, et cetera). The representatives of the German Government will take part in this conference in a consultative capacity as at Spa. The members of the Geneva Conference will make their report to their respective governments and each of these governments will inform its representative on the Reparation Commission of the conclusions reached as regards the report of its representatives at the Conference of Geneva.

3. Conference of Reparations Commission will then proceed conformably to the terms of the Treaty of Versailles to fix the total amount and the manner of payment of the sums due by Germany and will make a report to the Powers concerning the capacity of payment of Germany.

4. Meeting of the Supreme Council to examine all subsequent measures to be taken including guarantees and penalties."

WALLACE

462.00 R 29/392 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, November 19, 1920—1 p.m.

[Received November 20—4:28 a.m.]

1939. B-320 for Davis.

Embassy has forwarded details final arrangement between France-England for conferences about indemnity (Embassy number 1933). Changes since my last cable on subject slight.

1st. Meeting by experts designated by governments instead of by Reparation Commission. Under previous arrangement Commission was expected to nominate delegates themselves as experts to meet Germans. Am told generally understood now each government except France will still designate its Reparation Commission delegate as expert for first meeting with Germans at Brussels. Am told this whole change result of Dubois unwillingness take part in such meeting. If so probably due to his strong belief that treaty should be followed exactly combined with feeling that participation in conference not consistent with his position as member of tribunal whereunder treaty is sole authority subject to no control. Evidently French Government does not share this view if rest of foregoing information is correct.

2d. My first impression was following. France, while maintaining legal status of Reparation Commission, has accepted arrangement which seems to sidetrack Commission, so weakens Commission prestige, because these governmental conferences in which Commission does not participate will inevitably report regarding governmental instructions either to Commission as body or to individual representatives. England while maintaining principle of governmental conference has accepted complicated arrangement which makes original purpose, namely prompt fixation of indemnity, impossible of attainment. I recognized however some advantage in fact that meeting of French wishes regarding methods would lessen French prejudice against conclusions, also during delay French public sentiment may become more sensible. I have rather indefinite feeling that French business already recognizes necessities of situation. This influence may become more helpful.

3d. Expressed to Bradbury yesterday opinion that parties had adopted very complicated method of accomplishing nothing. He dissented from this statement on the ground that Brussels meeting afforded opportunity for doing just what I some time ago suggested very emphatically to him namely fixation of principles without immediate insistence on concrete figures. I had supposed this suggestion lost long ago in the confusion. Bradbury then told me of

understanding about nomination experts in the first paragraph above, which was his reason thinking Brussels meeting would accomplish something.

4th. Change in arrangements from nomination of experts by Commission to nomination by governments affects United States attitude. If Commission went to Brussels as official body or if Commission nominated delegations as experts, as first proposed, I should have gone as a matter of course but when delegates excepting Dubois go as representatives not of Commission but of governments there arises obvious difference in principle. Although still retain my unofficial character should not feel authorized to go without your authority. Please advise.

5th. For your information, add Bradbury evidently expected me to go. Recognized difficulty when I explained it. I told him your decision might depend considerably on whether other governments wanted me there. He thought no doubt that could be. Met Theunis later who also took for granted I was going. Am told French in replying to direct question said glad have us represented because sure we wanted them to be paid which is true if you add to the fullest extent possible.

6th. My inclination is to go. Recognize possible ill feeling which may be caused here by any influence we may exert towards sensible conclusions also further difficulty created by recent election at home but believe these difficulties slight in comparison with duty and advantage over doing all reasonably possible to reach sound economic basis on indemnity which will I believe be supported in the United States by most Republicans as well as Democrats. This of course on assumption that our participation would really be welcomed.

7th. Theunis leaves Commission almost immediately to become Finance Minister. Succeeded here by Delacroix. Probably best choice for successor but Theunis' place can not be really filled.

Boyden
WALLACE

462.00 R 29/400 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, December 3, 1920—2 p.m.

[Received 8:50 p.m.]

1976. B-338. For Davis. See my B-320 and 333.⁸⁸

Brussels conference probably December 13, definitely arranged as anticipated. English, Belgian, Italian delegates to participate but

⁸⁸ Latter not printed.

Bertolini died Sunday his successor not yet named. Should expect Italian assistant delegate take his place at Brussels. Bradbury, Delacroix confirm desire my participation. Discussions since previous cable strongly confirm my previous impression in favor, first, because natural thing to do, second, because feel sure shall lose touch with real game unless I follow ball.

WALLACE

462.00 R 29/400 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 10, 1920—6 p.m.

1684. B-168. Regret delay in replying definitely to Embassy's 1976, December 3, your B-338. It is becoming increasingly objectionable and difficult for this Government to be represented on various commissions for which we receive invitations and it is not considered advisable for you to attend the Brussels meeting. I realize fully the advantages of attending the conference, but the objections to our participation are increased by the *communiqué* issued by the French and British Governments to the effect that the conference is being held under agreements entered into by these Governments.

DAVIS

462.00 R 29/412 : Telegram

*The Ambassador in France (Wallace) to the Acting Secretary of
State*

PARIS, December 13, 1920—5 p.m.

[Received December 14—1:12 a.m.]

2006. Following note dated December 11th just received from Foreign Office:

"I have the honor to inform Your Excellency that the Allied experts will be at Brussels on the 15th of this month where they will hold a meeting the following day with the German experts for the purpose of making a preliminary examination of the question of the reparations due by Germany under the treaty of Versailles.

The experts will forward a report to their respective Governments and the minutes of their meetings will be communicated to the Reparation Commission.

Inasmuch as the United States Government possesses an unofficial representative on the Reparation Commission, it will doubtless

delegate an unofficial representative to Brussels who will remain in contact with the Allied experts during the conversations held between the latter. It would be particularly agreeable to the French Government if the American Government would take a decision in that sense. Signed G. Leygues”.

Boyden advised.

WALLACE

462.00 R 29/412 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, December 15, 1920—1 p.m.

1700. Your 2006, December 13, 5 p.m.

See Department's 1684, B-168 for Boyden.

You are requested to inform the French Foreign Office that this Government does not deem it practicable to be represented at the conference at Brussels on December 15.

DAVIS

DELIVERIES OF GERMAN DYESTUFFS AND CHEMICALS UNDER THE TREATY OF VERSAILLES

Policies of the Associated Governments—Appointment of a Dye Expert for the United States—Allied Agreement of September 15, 1919—Distribution of Dyes among the Associated Powers—Statement on February 10, 1920, of American Views on the Delivery and Distribution of Dyestuffs and Chemical Drugs—Arrangements between the Department of State and the Textile Alliance

611.626/22 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, August 10, 1919—[1 a.m.]

[Received August 10—10:32 a.m.]

3601. At informal meeting[s] between British, French, Italian and Belgian dye experts and German dye experts which have been proceeding at Versailles, very acute differences developed between the different delegations. The British have been represented by delegates chosen from dye manufacturers who are anxious to reduce to a minimum the utilization of German dyes evidently in the hope of keeping them off the market until Great Britain will be able to export. On the other hand the delegates of France, Italy and Belgium are representatives of textile industries who are exceedingly anxious to receive at once large quantities of dyestuffs for the reestablishment of their industries and who are under very great political pressure

to accomplish this. The Germans appeared anxious to put into effect at once the provisions of annex VI of the reparation clauses so as to know as soon as possible precisely where they stand and what dyestuffs will be left to dispose of after the exercise of the option given the Reparation Commission. The French, Italians, and Belgians in agreement with the Germans accordingly proposed that the German inventory of stock should be given and accepted as of August 15 and the option exercised within 15 or 30 days thereafter. The British on the other hand refused to accept this procedure.

A meeting was held yesterday of the British, French, Italian, and Belgian experts at which Dulles⁸⁸ presided in an effort to reconcile the conflicting views. Dulles stated that it would be impossible for the United States to agree to an anticipation of the treaty clauses. At the same time steps should be taken to ensure the French, Belgians, and Italians facilities to purchase German dyestuffs pending the coming in force of the treaty. It appears that the British through the Rhineland Commission and the Army of Occupation have succeeded in practically impounding all German dyestuffs on the theory that they could not be disposed of pending the coming in force of the treaty and the exercise of the option referred to in annex VI, reparation clauses.

It was eventually agreed to accept the view that no effort would be made to anticipate the time limits established by the treaty unless the United States agreed to this procedure. The American delegate undertook to cable for instructions in the matter. It was on the other hand agreed that German dye requisites [*stocks*] in occupied area should be made available for French, Italian and Belgian purchasers and that France should purchase 350 tons[, Italy 350 tons and Belgium 150 tons]. It was understood that these [purchases] would be for domestic use only and not for [re-]export. It was also agreed to recommend to the temporary Reparation Commission that it take steps to bring about the immediate formation of a committee of experts to consider the operation of annex VI.

The foregoing recommendations were presented to the Committee on the Organization of the Reparation Commission at its meeting held August 9 and were approved.

The Mission is not advised as to what the policy of the United States will be with regard to dyestuffs but whatever its policy is, [it is] believed that we will be at a disadvantage unless an American dyestuffs expert is present in meeting[s] of the experts of other committees which are taking place. Polk.

AMERICAN MISSION

⁸⁸ John Foster Dulles, financial adviser, American Commission to Negotiate Peace.

611.626/22: Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, August 21, 1919—5 p.m.

2908. Your 3601, August 10, 1 a.m. Our present policy is to issue no licenses whatsoever for any dyestuffs produced in Germany, because, under present conditions, they would probably be imported through the old German agencies who are using every effort to regain Germany's hold on the dyestuff industry in this country. Dyes of non-German origin are being imported in considerable quantities, and it is understood that, under the Treaty, dyestuffs may be secured by American consumers directly from the Reparation Commission and without the intervention of the old German agencies. It is the opinion of our Advisory Committee on Dyes that the disadvantages of importing through these agencies outweigh any present needs of American Consumers.

There is, however, a possibility that the need for vat colors will become so pressing in the very near future that it will be advisable to anticipate the functioning of the Reparation Commission and to license the importation, through other channels, of limited quantities of vat colors. If this should prove to be the case, would it be possible as far as you are informed, for American consumers to negotiate for and purchase vat colors directly from the German producers, either in unoccupied or occupied Germany, or will Germany prohibit all exports of dyestuffs pending the coming into force of the Treaty and the exercise of the option provided for in Annex VI?

LANSING

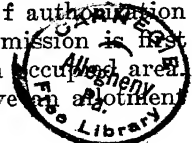
611.626/27: Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, August 23, 1919—11 p.m.

[Received August 24—10:48 a.m.]

3870. Department's 2908, August 21, 5 p.m. The Mission concurs in your views that under the treaty dye-stuffs may be secured by American consumers directly from the Reparation Commission and without the intervention of the old German agents in the United States. Mission is further of the opinion that it will be possible for American consumers to negotiate for and purchase vat colors directly from the German producers either in unoccupied or occupied Germany although it may facilitate such purchases if authorization of Committee on Organization of Reparation Commission is first obtained, particularly if purchases are to be made in occupied areas. It is believed that it would be easily possible to have an adjustment



of dye-stuffs for the United States added to the amounts authorized for France, Italy and Belgium as reported in Mission's 3601, August 10, 1 p. m. The Dulles report therein referred to, which was rewritten [*approved*] by your Committee on Organization of Reparation Commission, contains a declaration secured by Dulles reading as follows:

"The delegates of France, Italy and Belgium further volunteer to assist in the acquisition by Great Britain and the United States of German dye-stuffs in the event that the two latter countries should desire to participate in purchases thereof."

There appears to be no disposition on the part of German Government to prohibit exports of dye-stuffs pending the coming into force of the treaty. It is not in Germany's interests so to do for the reasons:

1. That dye-stuffs sold other than by treaty provisions can command a higher price and,
2. Dye-stuffs sold at the present time will operate to diminish the stocks on hand at the time of coming into force of treaty and which stocks will serve as basis for treaty option. Polk.

AMERICAN MISSION

862.659/6 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, August 28, 1919—3 p.m.

2978. President has approved that Doctor Charles H. Herty, now Secretary of Board passing on Dye licenses, be sent to Paris as dye expert of the United States.

LANSING

611.626/27 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, August 28, 1919—5 p.m.

2984. Your 3870, August 23, 11 p.m.

Kutthroff Pickhardt & Company who, as you know, are agents for the Badische Company, are representing to us and to the dye consumers that they are in a position to secure and deliver immediately the present requirements of the American consumers for vat dyes if we grant the necessary import licenses. These representations do not correspond with the information given to us recently by MacDowell and Bradley Palmer⁸⁸ nor with the inference in your 3870 that

⁸⁸ Charles H. MacDowell and Bradley W. Palmer, economic advisers, American Commission to Negotiate Peace.

purchases of dyestuffs in Occupied Territory will be difficult unless facilitated by the Committee on Organization of the Reparation Commission. We are very anxious to secure a definite confirmation of our present understanding that the only effective way to secure our present dye requirements from the Occupied Territory is to effect purchases through official channels and this for the reason that the Rhineland Commission will not permit the withdrawal of dyestuffs from the Occupied Territory unless request for the same is made through official or quasi official channels.

We are contemplating a plan to provide for the immediate importation of a six months' supply of vat dyes directly through the Allied authorities and without the intervention of any importing agencies.

LANSING

611.626/30 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, September 6, 1919—3 a.m.

[Received 4:25 p.m.]

4069. At meeting of Reparation Committee on September 4 discussion of dye stuff situation disclosed continued sharp difference of opinion between French and British Delegates. Chairman Loucheur with great emphasis and considerable heat exposed the desperate situation of industries in Roubaix and elsewhere in Northern France due to lack of dye stuff[s], and he was supported by Belgian and Italian Delegates who stated that needs of their countries were excessively urgent. The French allege that the delivery of the dye stuffs outside of the option provided for by part VIII, annex VI, paragraph 1, of the treaty will result in excessive prices being insisted upon. According to their statements the 850 tons mentioned in American Mission's 3601, August 10, 1 a.m., could only be bought at prices three or four times as great as those on the stock lists hereinafter mentioned. The very serious difficulty is also obvious, that if purchases in large quantities are now permitted the stocks on hand when the treaty comes into force will be so reduced as greatly to impair the deliveries under the reparation clauses. The French solution proposed is that the option should not be formally exercised but that deliveries should be anticipated at prices fixed in accordance with the treaty provisions, such deliveries to be deducted from the shares with [of] countries benefiting by the option when the treaty comes into force. Objection was made to this plan by the American and British Delegates who pointed out that an anticipation of the execution of the treaty was involved

which might lead to embarrassment and for which in any case authorization of the governments concerned [was necessary]. It was finally arranged that a meeting of experts should be held in London on Tuesday next, September 9, under chairmanship of Lord Moulton to discuss ways and means of meeting the French and other requirements. Request made by Dresel⁸⁸ to postpone meeting until arrival of American expert was refused. It would be extremely desirable to have an American expert present at this meeting and if Herty mentioned in Department's 2978, August 28, 3 p.m., has already started he should be directed if possible to proceed to England at once.

Referring your very confidential number 2984, August 28, 1 p.m. [5 p.m.], American Mission has no reason to suppose that export of dye stuffs from occupied territory is possible without authorization of the Reparation Committee but is communicating with Rhineland Commission on the subject and will endeavor to secure positive confirmation immediately. As a matter of policy free export of dyes at the present moment seems extremely undesirable on account of the consequent reduction of stocks as indicated above and the rise in prices. In addition the French needs are very [real] and it is suggested that American dye manufacturers be discouraged from endeavoring to fill their orders in Germany unless in case[s] of the most urgent necessity which American Mission understands from Department's 2908, August 21, 5 p.m., and also from personal interviews with dye manufacturers passing through here, do[es] not exist at present.

The Commission has received from the German Delegation a copy of the lists of dye stuffs existing on August 15 in the following factories: Badische Anilin und Soda Fabrik at Ludwigshafen; Chemische Fabriken, formerly Weiler Ter Meer, at Uerdingen; Farbfabriken, formerly Friedrich Bayer and Company, at Leverkusen; Farbwerke, formerly Meister Lucius and Bruning, at Hoechst; [Kalle] and Company, *Aktiengesellschaft*, stocks [*sic*] at Biebrich. As only one copy received these will not be [forwarded] unless especially requested, pending arrival of Herty.

Decision of Department on question of policy as to anticipating arrangements under annex VI as suggested in American Mission's 3601, August 10, 1 a.m. would greatly facilitate future discussions here. It seems unlikely that the British though expressing themselves as desirous to help out the French will consent to an anticipation of the treaty in this respect. Polk.

AMERICAN MISSION

⁸⁸ Ellis Loring Dresel, technical adviser, American Commission to Negotiate Peace, 1919; American Commissioner at Berlin, Jan. 1920.

611.626/30: Telegram

The Acting Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 8, 1919—8 p.m.

3062. Your 4069, September 3 [6]. Supplementing Department's 2908, August 21, 5 p.m., the need of vat dyes has become so urgent that we have decided to permit the immediate importation of a limited quantity of these dyes sufficient to supply consumers' needs for the next six months. Dr. C. H. Herty sailed for Paris on September 3 as the official representative of the War Trade Board Section of the Department to ascertain and report to us concerning the feasibility of securing the above mentioned dyes, and also to lend such support as may be proper in connection with any purchases of these dyes desired to be made by the American consumers. Unfortunately, Herty will not arrive in time for the London meeting on the 9th but the Department has instructed the Consul General to attend and to inform the delegates that the United States needs a six months' supply of vat dyes. The Department of course could not give Herty any authority to purchase dyes, but the consumers of the country are arranging to form a central importing agency which it is intended shall do the actual buying and distribution of such German vat dyes as may be available to supply the above mentioned allotment.

We are still much perplexed by the conflicting statements of the German importing houses on the one hand (see Department's 2984, August 27 [28], 5 p.m.) that they are ready to deliver vat dyes at acceptable prices if we will issue the necessary import licenses, and the statements of the Mission on the other hand that serious difficulties are being experienced in securing the release of dyes by the Reparation Commission.

As stated in Department's 2908, August 21, 5 p.m., our Advisory Committee would desire, if possible, to prevent any resumption of activity on the part of the old German agencies, and one of the chief objects in bringing about the formation of a central importing agency is to avoid their intervention. On the other hand, if, as they represent, the German agents are actually in a position to deliver immediately at acceptable prices the vat dyes which are admittedly urgently needed in this country, the Department is unable to see any sound basis upon which it can refuse to issue to these agents licenses to import such parts of the above mentioned six months' allotment as the consumers may wish to place in said agents' hands, thus making it optional with the consumers to import through the German agencies or through the new im-

porting agency. We do not believe that our present statutory power authorizes us to discriminate against the German agencies in the matter of issuing import licenses. We fully appreciate that it is undesirable to permit the free export of dyes from Germany, and we have no present intention of permitting United States citizens to import any German dyes beyond the above mentioned limited quantities of vat dyes. In view of such a limitation, is it important, from the standpoint of the Reparation Commission, whether these vat dyes are imported through the old German agencies or through the arrangements which may result from the proposed conference on the 9th? In either event, the amount withdrawn from present German stocks would be identical. The Department is unable, at the present time, to decide the general question of policy as to whether this government can agree to an anticipation of the provisions of Annex VI, and, so far as American needs for dyestuffs are concerned, we do not feel that a decision of that question will be necessary, unless it should prove to be impossible to secure our present requirements of vat dyes at acceptable prices, either (1) through direct purchases made pursuant to the declaration contained in your 3870, August 23, 11 p.m., or (2) through the channels of the old German importing agencies.

Our present position is unsatisfactory in that while we are convinced of the necessity of permitting the importation of vat dyes, we are withholding licenses for their importation from the German agents who assert their ability to deliver, in the face of numerous despatches from you which indicate serious difficulties in securing these dyes through any other channel. We hope that with Herty's co-operation you will be able to clarify this situation so that we may proceed at an early date to license imports of vat dyes. Please show this cablegram to Herty.

PHILLIPS

611.626/36: Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, September 19, 1919—1 a.m.

[Received 10:21 a.m.]

4270. The following telegram has been received from American Embassy London: ⁸⁸

"[257.] Your 374, September 18 [8], 1 p.m. At meeting today of Committee to discuss exports of German dyestuffs which was at-

⁸⁸ The telegram was dated Sept. 16, 11 a.m.

tended by representatives of France, Italy and Belgium, with Lord Moulton as chairman, following resolution was agreed to.

'This Committee recommends to the Committee on Organization that France, Italy and Belgium be authorized to obtain their immediate needs for dyestuffs up to a maximum quantity of 2200 tons out of the dyes to which the Allies have an option under the peace treaty, such dyes to be at prices not higher than those proposed by the Germans in their lists of stocks at the 15th August last, but on the condition that the proceeds shall be credited to the reparation fund and that these prices should be without prejudice [*be in proportion*] to those payable for the remainder of the dyes under any [*the*] option. Such authorized quantities shall not consist of more than 30 percent of amount under the option of any particular dye (i.e. 15 percent of the total stock). This arrangement to be entirely without prejudice to any ultimate decision of the Reparation Commission as to their action under the powers of the Treaty as to dyes and all necessary adjustments to be made accordingly. France, Italy, and Belgium to agree among themselves as to the division of the dyes thus taken and to agree to consent to England and America each receiving under like terms a quantity not exceeding 1500 tons should they so desire, it being understood that these quantities in no wise prejudice the eventual rights of each of the interested countries so far as the stock under option is concerned.[']

"Certain of the delegates to this meeting are leaving London at once but Herty will be fully informed regarding the course of the discussions by Embassy representative who was present."

The meeting in question took place on Monday, September 15. Herty did not reach Paris until Sunday night and it was therefore impossible to get him to London in time for the meeting but he arrived in London Tuesday morning in hopes that discussions would not be finished. The wording of the resolution appears open to serious criticism as it conveys the impression that the option is to be partially exercised. Dresel has therefore stipulated that when the proposal is put to the Germans the statements shall be explicitly made:

1. That the proposals embodied in this resolution are not to be construed in any sense as an even partial anticipation of the option conferred by the treaty.
2. That the acceptance of the lists of stocks as of August 15, must not be taken as an official act in accordance with annex VI to part VIII and that the delivery of lists by the Germans is a purely voluntary act.

The British Delegate agrees in considering the resolution as worded an attempt to anticipate the treaty provisions. He states however that his Government is now inclined to agree to such anticipation. The question is likely to be academic as the universal opinion is that the Germans will not consent to deliver any quantity of their dyestuffs at the prices stated in the lists furnished unless there is a definite understanding that the option is to be exercised leaving the remainder of their stocks as of August 15 free for export. The vital question is evidently that of price and as to this further difficulties must be anticipated.

Noyes⁸⁹ has furnished information regarding the present situation as to dye stuffs in the occupied districts which may be summarized as follows:

1. The Rhineland Commission is only issuing licenses affecting the daily output of the factories and is using discretion in cases where the daily output for a certain period comprises all of the particular dye which is produced for say a year in order that the stock of that dye may not be completely exhausted.

2. It is only issuing licenses affecting the stocks as of January 15, by direction of the Interim Reparation Commission, as in case of 850 tons recently licensed for France, Belgium and Italy.

3. The control established of stocks as of January 15 is said to be fully recognized by the Germans and according to statement of Noyes these stocks are safe under lock and key.

4. So far as modifying the export prohibition in force pursuant to the decisions of the Armistice Commission, the Brussels convention has remained a dead letter.

5. So far as deliveries stated to be possible in your number [2984], August 28, 5 p.m., are concerned, Noyes confirms American Mission's understanding that delivery can only be contemplated either out of stocks accumulated in neutral countries or by the daily output granted by Rhineland Commission.

A written memorandum is to be furnished by Noyes the substance of which if important will be cabled.

American Mission would be glad to receive at earliest practicable moment your comments on resolution passed by London meeting and any suggestion[s] as to future action. If Germany refuse[s] proposal only solutions in sight appear to be: (1) to anticipate the option, or alternatively (2) to continue to license under direction of Reparation Committee such quantities as are necessary for needs of countries interested without reference to treaty procedure. To this course obvious difficulties of high prices and absorption of stocks apply.

Herty is expected to return almost immediately to Paris and Department will be kept informed of later developments. Polk.

AMERICAN MISSION

611.626/36 : Telegram

The Acting Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 27, 1919—4 p.m.

3262. Your 4270, September 19, 1 a.m.

1. The Department concurs in your opinion that the resolution adopted on September 18 [15?] by the London Committee is in substance an attempt to avail of the provisions of Annex VI of the Treaty. The Department is, however, willing to approve the plan in

⁸⁹ Pierrepont B. Noyes, American observer on the Rhineland High Commission.

view of the wishes of the other delegates and of the advantages of the lower prices, although we are advised that, so far as the prospective shipment of vat dyes is concerned, the question of price is not as vital to our consumers as it appears to be to the French.

2. The outstanding feature of our situation is the pressing need for immediate supplies of vat dyes. Although it is desirable to secure these dyes otherwise than through the old German agencies, this consideration, as well as the question of price, is subordinate to the need of prompt delivery.

3. As stated in Department's 3062, September 8, 8 p.m., we are now withholding import licenses awaiting the outcome of the current negotiations in Paris, and your recent cablegrams create the impression that these negotiations may not result in a satisfactory and practicable plan for some time to come. One month has already elapsed since we announced to the consumers our decision to permit the early importation of a six months' supply of vat dyes; and you state in your 4270 that it is the universal opinion that the Germans will not consent to the plan of the London Committee and that then the only remaining solution will be to anticipate the Treaty option. On this point, the Department is now entirely willing to agree in principle to such anticipation. On the other hand, however, as stated above, time is of the very essence and we are beginning to doubt whether arrangements to secure our six months' supply of vat dyes through such anticipation could become operative soon enough to fulfil our pledges to the consumers. We are much embarrassed at present and cannot defer much longer the issuance of import licenses.

4. In view of the foregoing, it is of the utmost importance that we be advised immediately when it will be possible to actually secure the delivery of dyes under a plan to anticipate the Treaty provisions. We should have advices which will warrant our informing the consumers. If this will not be possible in the very near future, we will be compelled to adopt the second alternative mentioned in your 4270. In this connection, the following are certain practical considerations which should be taken into account:

(a) The consumers in this country have applied for, and we have allowed, allocations aggregating 977,019 pounds of vat dyes for consumption during the six months' period beginning October 1.

(b) Under the plan to anticipate the Treaty, it will be necessary to designate some single agency to act as an intermediary between the consumers and the sellers. The Department is prepared to designate the Textile Alliance as such agency to accept orders from the consumers in this country and to place these orders with or through the Reparation Commission under such plan as may be devised. It will be necessary for the Textile Alliance to send a representative to Paris to handle the details connected with the purchase of and payment for the dyes, and their shipment to this country.

(c) As stated in Department's 3062, September 8, 8 p.m., we do not see upon what ground we can deny consumers the right to import through the old German agencies. At best, we can only make it optional with the consumers whether they will avail themselves of an anticipation of the Treaty provisions. The only possible ground for denying the right to import through the old German agencies would be that, purely from the point of view of reparations, it is desirable for all American dye requirements to come through the Reparation Commission so that the value thereof may be credited to the reparation account. It is therefore urged that you send your views on this point.

(d) We have not yet decided to permit the importation of any dyes other than a six months' supply of vat dyes. If the provisions of the Treaty are anticipated to the extent of securing for us these particular dyes, will that be regarded as only a partial exercise of the option, leaving it open to us to secure such additional amounts of other dyes as we may decide are needed by our consumers? Or will the Germans insist that the option be regarded as completely exercised?

To meet the pressing demand of the American consumers we are considering the immediate issuance of allocation certificates which will entitle importers or their nominees to secure import licenses from us. At the same time we would announce the possibility or probability of being able to secure these dyes at Treaty prices and that consumers could either proceed immediately to order dyes through old agencies or arrange to purchase under the contemplated plan to anticipate the Treaty. Please consult Herty and wire us immediately your views on this proposal.

PHILLIPS

611.626/47: Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, October 1, 1919—11 p.m.

[Received 11:58 a.m. (p.m.?)]

4474. Department's 3262, September 27, 4 p.m.

1. On September 25 a letter was addressed to the German representative at Versailles by the Interim Reparation Committee stating that the Committee had decided: (a) to take immediate delivery of 2200 tons of dyes for [France,] Italy and Belgium; (b) that this amount might be increased to 5200 tons to provide for the reservation of 1500 tons each for the United States and Great Britain; (c) that the prices should not exceed those of German list[s] of August 15; (d) that this decision shall not prejudice in any way the ultimate decisions of the Reparation Commission as to the option it holds under the treaty terms upon half of the dye stocks in Germany, on the condition [*contrary*] this decision is entirely independent of the

treaty rights given to the Reparation Commission which rights are not affected in any way by this arrangement; (e) that the supplying of the lists of August 15, 1919, is not to be considered a beginning of the execution of annex VI of part VIII of the treaty. The letter explains, however, that such immediate deliveries would be a charge against the amounts to be delivered in accordance with the option should it be later exercised further; that Germany was to be allowed under the arrangement to dispose freely of an amount of each dye equaling that delivered under the present decision.

2. The arrangements proposed by this letter will be considered at an inter-Allied meeting on October 1 and [one] with the German representatives at Versailles has been called for October 2d. In view of the Department's assent to anticipating the option which will not however be made use of unless found necessary it is now believed that a satisfactory result may be attained.

3. The need for prompt deliveries is fully understood and this will be insisted on as an essential factor in all discussions with the Germans.

4. As only approximately 500 tons of vat dyes are required the thousand tons remaining of total American reservation could be used for supplying such needs of American consumers as were developed by your questionnaire to consumers in general last summer.

5. While a representative of the Textile Alliance would be welcomed and given every facility, American Mission is of opinion that Herty is entirely competent to handle situation. In any case it seems unnecessary to delay until arrival of Textile Alliance representative before arranging for vat dye shipments as copies of all German lists of August 15 were forwarded you on September 22 giving prices, quantities, [factory] designations, concentrations, etc.

6. It is strongly urged that no licenses shall be issued except for dyes secured through inter-Allied action the proceeds of which transactions will go into reparation fund. According to understanding of American Mission the granting of licenses for dyes is exceptional and is a waiver by the President of the prohibition established under the powers conferred upon him by the Trading with the Enemy Act.⁸⁹ The peace treaty provides for a specific method of securing the requirements of the Allied and Associated Powers for dyes and unquestionably contemplates that, so far as possible, the reparation fund shall have the benefit of these transactions. If licenses are granted for purchase through American agents of German manufacturers the reparation fund will be deprived proportionately of the intended benefit. Such action would undoubtedly create unfortunate impression on our Allies especially as stocks at German plants are

⁸⁹ See proclamation no. 1428, Feb. 14, 1918, *Foreign Relations*, 1918, supp. 1, vol. II, p. 958.

ready for delivery, prices are low, and the meeting with the Germans is nearly at hand.

7. Referring to American Mission 4270, September 19, 1 p.m. [a.m.], last paragraph [but] two. Noyes states that he has personally ascertained that not one pound of dyestuffs can leave the Bayer plant without permission of the Rhineland Commission. This plant is covered by 3 officers and 50 soldiers and the officer in charge states that leaks are impossible. Noyes further states that he is informed that in the Bayer plant 700 tons of dyestuffs are on hand in excess [of] the quantity existing on January 15. He will report later after personal investigations of other plants. Polk.

AMERICAN MISSION

811.626/36: Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, October 3, 1919—11 a.m.

3325. For Herty from War Trade Board. We have issued today the allocation certificates referred to in the last paragraph of Department's 3262, September 27, 4 p.m. These certificates authorize consumers to secure immediately through any commercial channels available the amounts of vat dyes mentioned in Department's 3279, September 29, 4 p.m.⁹⁰ Our announcement issued simultaneously with the certificates contained the following notice. "The War Trade Board Section takes this occasion to inform you that negotiations have been instituted with a view to securing German dyes at prices similar to those contemplated in Annex VI of Part VIII of the Treaty of Peace with Germany. You will be advised promptly of such arrangements as may result from these negotiations, and of the method whereby holders of Allocation Certificates may avail themselves of said arrangements."

We did not feel warranted in maintaining any longer a prohibition against the importation of vat dyes awaiting the outcome of the current negotiations in Paris. It is most important that you cable us promptly and fully as soon as a plan has been definitely adopted so that we will be enabled to keep consumers informed as to the possibility of securing their vat dye allotments at Treaty prices.

Are you sure that the prices which our consumers will pay for dyes under the London plan will be the prices mentioned in the inventory lists of August 15th converted into dollars at the rate prevailing at the time the plan is finally agreed to?

LANSING

⁹⁰ Not printed.

611.626/54 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, October 6, 1919—9 p.m.

[Received October 7—8:35 a.m.]

4551. For Garvan from Herty.

At meeting with Germans October 4 Allies accepted German agreement [*lists*] August 15, both as to stocks and prices in marks at current exchange rates on the day of delivery at factory. Stocks and prices guaranteed by German Government. For each kilo of dye taken by Allies from stocks on these lists a kilo of same dye is released to Germans for free sale.

Under inter-Allied London agreement of September 15, made in advance of my reaching London, we are entitled in present distribution to 10.226 per cent of total stocks of each item on lists of August 15 up to 1,500 [tons]. Allied lists are to be filed with Committee on Organization this week. However, we reserve the right to file a supplementary list some time later if we desire to do so. Committee on Organization will forward lists to German manufacturers.

Our share of present distribution of stocks is only approximately 30 per cent of total amount of available vat dyes listed in War Trade Board 3279, September 29, 4 p.m.⁹¹ This because of War Trade Board desire for specific vat dyes and limitation of our percentage of each dye in the distribution.

After the general meeting of [*with*] the Germans I had a conference with Von Weinberg, present head of Cartel, and his associates, regarding direct purchase from plants of dyes needed to complete our requirements. Von Weinberg gave me in writing an offer to fill such balances at following scale of prices: (1) For vat dyes per kilo divide prices in marks on lists of August 15th by four and quotient equals price per kilo in dollars. (2) For general colors divide by five. Thus a vat dye listed at 10 marks per kilo would cost us at factory two and a half dollars per kilo while general color listed at 10 marks would cost us two dollars per kilo. Terms cash in dollars on delivery of dyes at plant. This offer holds for at least four weeks.

These prices represent at German factory, without including tariff duties, slightly less than current American prices on dyes now manufactured in America. French, Belgian[s], and Italians inform me that these prices conform to those they paid under previous authorization to purchase of German stocks at open market prices.

⁹¹ Not printed.

Efforts to gain consent of Allies to increase our percentage of present distribution unsuccessful as all are in need vat dyes. Vat dyes of the present distribution are so cheap that we should place immediately with Committee on Organization application for immediate delivery of our full share of each dye listed in War Trade Board 3279. Decision of War Trade Board outlined in number 3325, October 3, 11 a.m., is incredible, taken as it was just while negotiations with Germans were actually in progress here, although Department's 3262, September 27, 4 p.m., stated that import licenses were being withheld "awaiting the outcome of the current negotiations in Paris". Furthermore, I stated in Washington in presence of Mr. Bennett of War Trade Board that I would not undertake mission to Paris under any such policy as has now been decided upon because I was unwilling to engage in [a matter of] competition with German agents.

War Trade Board's announcement that "Negotiations have been instituted with a view to securing German dyes at prices similar to those contemplated in annex VI of part VIII of the peace treaty with Germany" is very unfortunate in view of my repeated statements as to extremely low prices of peace treaty dyes. Department's 3262, September 27, 4 p.m., [paragraph 2,] emphasized that "price is subordinate to the need of prompt delivery".

War Trade Board in number 3325 questions accuracy of my statements as to prices of dyes under peace treaty distribution. This information was of course given correctly in my number 4298 September 20, 8 p.m.,⁹² and was confirmed in my 4507, October 3rd, to you.⁹² Germans on October 4 accepted without hesitation this basis of settlement on current exchange rates in terms of marks. I again repeat the statement. Von Weinberg informed me that stocks on August 15 were listed at these very low prices in order to conclude as quickly as possible this part of treaty. British inform me that Germans were required to submit prices in marks instead of Swiss francs as in lists of April 5th. Please cable quickly instructions as to peace treaty dyes. If they are desired, to whom shall consignment be made, from whom will Committee on Organization receive payment, etc. In view of War Trade Board's action as to distribution of import authorizations my presence here no longer required. Offer of Germans regarding needs above distribution share holds good for at least four weeks and an order can be cabled direct to Von Weinberg in care of Leopold Cossella and Company, Frankfort, by Textile Alliance or whatever body may handle the matter. Of course there is the possibility that Germans may decline to comply with terms of their offer to me in view of the fact that the offer was made for the total amount

⁹² Not printed.

balance [*total balance*] of our needs over and above our peace treaty distribution share. As soon as I hear regarding wishes as to peace treaty dyes I will return.

AMERICAN MISSION

611.626/47: Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, October 7, 1919—2 p.m.

3361. Your 4474, October 1, 11 p.m.

1. Please explain what is meant by the provision "that such immediate deliveries would be a charge against the amounts to be delivered in accordance with the option should it be later exercised further".

2. Does the plan now contemplated still contain the provision that the quantities secured shall not consist of more than 30 per cent. of the amounts under option of any particular dye, and, if so, will such provision prevent our securing the various quantities of the different vat dyes mentioned in Department's 3279 September 29, 4 p.m.? ⁹³

3. It is our understanding that the London conference recommended only a two months' supply for France, Italy and Belgium. Is it expected that we will be granted a six months' supply of vat dyes? Or is the reservation of 1500 tons for the United States intended to provide only a two months' supply of various dyes?

4. The Department does not understand exactly the practical steps you contemplate if the pending proposal is accepted by the German delegates. Neither Herty nor the Department has any authority to make a commitment on behalf of this Government to purchase or pay for any dyes. As stated in paragraph 6 of section 4 of Department's 3262, September 27, 4 p.m., it is our view that such purchase and commitment can be made only by some agency such as the Textile Alliance and then only to the extent that orders are actually placed with it and payment guaranteed by the consumers. The applications referred to in Department's 3262 and Department's 3279 are merely indicative of the amounts which consumers wish to import and which we will permit them to import, but they do not constitute any firm commitment by them to take these dyes and to pay for them. We do not understand how Herty can request or take delivery of any specified dyestuffs simply on the faith that he would probably be able to dispose of them in this country. It is our view that he can do no more at present than state that our requirements will be approximately the amounts indicated in Department's 3279, leaving it to the Textile Alliance, after receiving guar-

⁹³ Not printed.

anteed orders, to state the exact figures and to make such commitments or arrangements for payment as may be necessary under the provisions of the plan. It is therefore important that we be advised as soon as possible what the conditions of payment will be for the dyes which our consumers secure.

5. We agree that arrangements should not be delayed until the arrival of the Textile Alliance representative, but the Alliance will have a distinct responsibility in this matter, and we feel that they should send a representative abroad if they desire. Mr. F. A. Fleisch, Vice President of the Alliance, has just left for Europe on other business and it will be convenient for him to attend to the dye matter at the same time. He will arrive in Paris about October 15th.

6. Referring to paragraph 6 of your 4474. Since the resumption of general trade with Germany on July 14,⁹³ our control over dye imports has assumed in substance the character of a purely protective measure to safeguard our domestic dye industry against the influx of competing German dyestuffs. This attitude was clearly stated in Department's 2632, July 25, 4 p.m.,⁹⁴ in reply to Mission's 3166, July 15[16?], 1 p.m.⁹⁵ Under present conditions, it is the restrictions which are exceptional, rather than the reverse.

7. The Department is unable to assent to your conclusion in your 4474 paragraph 6 that the Treaty gives rise to any obligation on the part of this Government to compel our citizens to secure their dyes only through the Reparation Commission. The language of the Treaty merely accords an option so to secure them and the adoption of your view would prove most embarrassing, because, upon the ratification of peace, there will be no statutory authority to give it effect. The Longworth Bill does not grant any such authority, but, on the contrary, makes it expressly mandatory upon the Commission to issue licenses immediately for the importation of all dyes not obtainable in this country. Dulles, who participated in the drafting, has advised us that there is no obligation of any kind on the United States to insure the utilization of the Reparation Commission in the purchase of dyestuffs and that, in fact, it was understood in Paris that the United States would not avail of the option accorded by Annex VI. The Department is willing to continue to protect the domestic industry by restricting importations to limited quantities of dyestuffs not obtainable here, but we are not prepared to dictate to consumers the prices at which, or the channels through which, they shall purchase these commodities. We feel that we have gone as far as warranted in assenting to a plan to

⁹³ See *Foreign Relations*, 1919, vol. II, p. 239.

⁹⁴ *Ibid.*, p. 240.

⁹⁵ *Ibid.*, p. 239.

anticipate the option, leaving it optional with the consumers whether they will avail themselves of such plan. Having admitted the pressing need of vat dyes in the United States, it seemed clear that an adherence to the policy expressed above, together with the pressure brought to bear upon the War Trade Board Section by the consumers, demanded immediate action of the character described in Department's 3325, October 3 noon [11 a.m.]. Furthermore, we had assumed, in view of the declaration secured by Dulles referred to in Mission's 4173, September 12, 8 p.m.,⁹⁹ that there would be no objection to our permitting our citizens to secure a limited supply of German dyes through ordinary commercial purchases.

Please show to Herty.

LANSING

611.626/55 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, October 8, 1919—1 a.m.

[Received 11:19 p.m.]

4572. Referring Herty's cable to Garvan sent by American Mission's 4551, October 6, 9 p.m. The letter mentioned in American Mission's 4474, October 1, 11 p.m., was accepted in full by Germans at meeting of October 4. The option they request was not involved except as diminishing the quantity of stocks on which it will be arranged [*will operate*]. A proposition made by the American delegates that the Germans should hold 50 per cent or 25 per cent of stocks on hand between August 15 and the date of the coming into force of the treaty, was not insisted on as the general opinion was that it would be [impolitic] to attempt to enforce too severe restrictions.

In accordance with the suggestion of the Belgian Delegation the lists of the requirements of the Allied and Associated Powers will be sent promptly to the Rhineland Commission, who will then discuss with the German representatives the means of filling the orders as expeditiously as possible with regard to choice of factories, details of shipment, et cetera. This appears the most feasible arrangement as the Rhineland Commission conversant with the whole situation.

American Mission agrees with Herty in considering War Trade Board's [action] in issuing permits freely to consumers to secure dyes through any commercial channel on the very date before negotiations were concluded with the Germans as exceedingly unfortunate for the following reasons:

⁹⁹ Not printed.

1. From the information at hand the [German] agencies concerned will perpetuate the old methods for the [existence of] which there is no real necessity.

2. That action will infallibly handicap utterly [*us in*] our relations on this matter with our allies.

3. It is embarrassing to Herty, who on the day following the issue of licenses made an adequate arrangement, subject to approval from America, with the head of the German dyestuffs experts for the purchase of the balance of the needs of American consumers.

4. The method initiated by the War Trade Board's decision will diminish appreciably the amounts to be paid in by way of reparations.

5. While control is still being maintained, as stated in American Mission's 4474, paragraph 7, it is [*in*]advisable to offer inducements to unauthorized diminutions of the stocks under control.

The decision comes just at the moment when what appears to be a thoroughly satisfactory agreement had been reached with the Germans and also a complete understanding had been attained with our allies. Polk.

AMERICAN MISSION

611. 626/54 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, October 9, 1919—3 p.m.

3383. Your Garvan from Herty 4551, October 6, 9 p.m.

1. In reference to the "incredible decision of the War Trade Board outlined in the Department's 3325 October 3" and referred to in your cable. Please inform Mr. Herty that the decision of the War Trade Board was directed by the Department of State for certain important reasons here but that if dyes can be obtained promptly through the Reparations Commission it is the opinion of the Department that practically all the dyes licensed to be imported will be purchased through the channel of the Reparations Commission.

2. Concerning Mr. Herty's reference to the War Trade Board in No. 3325 as questioning the accuracy of his statements as to price of dyes under Peace Treaty distribution, please inform Herty, Dresel and Rathbone⁹⁶ of the following: The War Trade Board had no intention of questioning Herty's understanding of agreement with the Germans but both the Board and Department of State were doubtful of the ratification by the Reparations Commission itself of

⁹⁶Albert Rathbone, Assistant Secretary, U. S. Treasury, in Europe to handle matter relating to reparations; unofficial representative on the Organization Committee of the Reparations Commission, after Jan. 10, 1920, the Reparation Commission.

⁹⁷Norman H. Davis, technical adviser, American Commission to Negotiate Peace; Assistant Secretary, U. S. Treasury, Nov. 1919 to June 1920; assumed duties as Under Secretary of State, June 15, 1920.

such a proposition. Norman Davis,⁹⁷ Dulles and others handling reparation matters in the Department feel there is grave danger in doing anything which will establish a precedent that the value of commodities handed over by Germany as part of reparation should be credited to her against the reparations bill at a depreciated rate. The money paid for the dyes will go to the credit of the reparations account. It is felt that the rate of exchange between German marks and American dollars for instance is due to abnormal conditions of foreign trade, etc., and that the value of the dyes in dollars at the current rate of exchange is not a fair credit to the reparations fund. Exhaustive study is being made of this general matter in the Treasury and State Departments at the present time and it is felt of utmost importance that until a conclusion is reached the American representative on the Reparations Commission, if consent is given at all to such a policy in reference to dyes, will make it clearly understood that the action taken in reference to the dyes will in no way stand as a precedent or effect [*affect*] the adoption of a definitive policy as regards credits in reparations. We realize the amount involved in respect to the dyes is small and if decision has been taken already in this matter by the Reparations Commission no objection will be made by the Department provided reservation is made as outlined above. It is important that you let us know as soon as possible whether the Reparations Commission has ratified the basis of settlement on current exchange rates.

3. Please explain to Herty the Department's appreciation of his efficient work and that it considers of great importance Mr. Herty's presence in Paris as a dye expert. It is felt inadvisable that Mr. Herty, a Government employee, should for himself or the Government take the responsibility of the details of the commercial transaction of actually buying the dyes. The handling of this matter by the Textile Alliance will probably relieve the Government of a great deal of the responsibility and obnoxious details in the matter. The arrangement for treaty dyes should be pushed rapidly to its conclusion. Representative of the Textile Alliance should be on the spot in a few days, to arrange the details with power to take the dyes and pay for them.

4. As regards offer of Germans regarding needs above distribution share we see no objection to the Textile Alliance closing with Von Weinberg for the dyes it will need to supply consumers ordering dyes through them. It would seem wise, however, that this transaction should be considered a private commercial transaction on the part of the Textile Alliance. There would appear to be no real difficulty in the Textile Alliance prorating the dyes and the different prices.

5. This cable approved by A[lien] P[roperty] C[ustodian].

LANSING

611.626/58 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS [October 12, 1919—11 p. m.]

[Received October 13—10:32 a.m.]

4633. Your 3361, October 7, 2 p.m. Answering your paragraph 1, [the] concluding word "further" quoted as contained in American Mission's 3262, September 27th, 4 p.m. [4474, October 1, 11 p.m.], paragraph 1, is not in that cable as sent. The stocks given in the list of August 15th [constitute] by agreement the basis for a final settlement. Advanced withdrawals from these stocks as arranged October 4th will diminish by corresponding extent amount of each dye available for final exercise of peace treaty option.

Your paragraph 2. Plan agreed on with Germany provides that France, Belgium and Italy together may in present partial distribution secure not more than 30 per cent of the 50 per cent option on each item of stocks listed, that is, 15 per cent of total weight of each item provided such withdrawals shall not aggregate [more than 2200] tons. Under London agreement of September 15th United States, Great Britain together have privilege of withdrawing not more than 40.9 per cent [of the 50 per cent] option on each item of stocks listed: that is, 20.4 per cent of total weight of each item provided such withdrawals shall not aggregate more than 3,000 tons. As United States and Great Britain are placed on equal [basis] under the London agreement, United States are entitled to withdraw 10.225 per cent of total weight of each item listed provided that total weight does not [exceed] 1500 tons. On this basis it will be impossible to secure the full amount desired by consumers of all dyes specified in number 3279 September 29th, 4 p.m.⁹⁷

Your paragraph 3. [These preliminary] withdrawals from stocks are not based on a supply for a definite number of months. Definite tonnage allotments have been made [regardless of] time requirements. If, as is expected, [the peace] treaty will soon become effective a prompt exercise of the option on the remainder of stocks as of August 15th may be looked for.

Your paragraph 4. Neither American Mission nor Herty have ever considered a commitment of our Government to a purchase of dyes or payment [therefor] but it was the understanding that either the Consumers Association referred to in your 3062 September 8th, 8 p.m., or the Textile Alliance referred to in your 3262 September 27th, 4 p.m., would be able to advise promptly as to what dyes should be

⁹⁷ Not printed.

applied for under the terms of the treaty. It was presumed that on account of the very favorable terms indicated by the lists furnished by the Germans a guarantee or [specific] statement would be forthcoming which would make it possible to announce definitely [the] American requirements. This was strengthened by the authority conferred by Department's 3262, September 27th, 4 p.m., to anticipate the [option]. Such anticipation even though partial would of necessity entail at least a moral obligation towards our Allies to make ourselves responsible for a definite [quantity] and though it was understood that it was not necessary under the arrangements actually made to anticipate the option it is evident[ly] equally unsatisfactory in that case to make only a non-committal estimate of what the consumers needs may be. The other powers have in each case definitely stated what amounts they are willing to [take] and it is difficult to see how stocks can be reserved for us until the consumers have made up their minds how much they wish to obtain by benefit of the treaty clauses and how much from outside sources. It is obviously impossible to make the amount ordered from the Germans in pursuance of the present arrangements a varying quantity. However, in view of your paragraph 4, distinct statements will be made that we are not authorized to take up any specific quantity but must await definite orders from the consumers.

Outside of the treaty provisions and in order to cover the shortage of dyes resulting from the small percentage allotted under the London agreement, Herty obtained an offer from the Germans to complete the amounts of each item in your 3279 September 29th, 4 p.m. He has never, however, contemplated taking delivery of any specified dyes except [on] authorization of the Consumers Association or the Textile Alliance and the offer of the Germans committed us to nothing but afforded a means of quickly filling American needs.

Your paragraph 7. American Mission has never been of opinion that the treaty in any way compels American citizens to secure their dyes only through the Reparations Commission but has been in entire agreement with the language of your 3622 [3262] in which you state that it is desirable that all American dye requirements should come through the Reparations Commission so that the value thereof may be credited to the reparations account. It was felt that our citizens would naturally prefer that as far as possible funds arising from dye purchases should go to the reparations funds rather than to individual German manufacturers and agents. Polk.

AMERICAN MISSION

165.102/1107 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, November 7, 1919—8 p.m.

[Received November 8—3:06 a.m.]

5062. For War Trade Board from Rathbone.

Permanent committee of experts on dyestuffs of the Committee of Organization of the Reparation Commission held meeting November 5. Conclusions of this committee are not final but are referred to Committee of Organization of the Reparation Commission for consideration and ultimate decision.

At meeting the following transpired:

1st. The committee agreed that licenses should be issued forthwith permitting the 5,200 tons referred to in American Mission 257, September 16th, 11 a.m.,⁹⁸ to be withdrawn from impounded supplies [and shipped] when desired by the respective countries.

2d. The British portion of these dyes is now ready for shipment.

3d. As German transportation facilities are inadequate owing to alleged coal shortage and low water in the Rhine it was agreed that no Allied country should have advantage over another in the shipping of dyes.

4th. German factories while neglecting Allied orders are filling German and neutral orders. It was the opinion that the present military control over the factories in occupied territory could not be continued after the treaty came into effect, but the view was advanced that the clause in annex VI, paragraph 2, of the treaty, giving the Allied and Associated Powers the right to 25 per cent of the daily production and leaving it to them to decide whether the daily production had been up to normal or not, would enable them to set up a sort of control commission which would not only supervise existing stock[s] but also look into the production of the various factories and require them to produce the actual colors wanted by the Allies up to normal production of each color wanted, and also prevent Germany from pretending she could not produce certain dyes because she lacked certain necessary raw materials. A proposed set of instructions for such a commission is to be drawn up and a special meeting of the committee of experts is to be held next Wednesday to consider these regulations.

5th. It was estimated that 90 percent of the stocks and production of dye[s] are in occupied territory.

6th. In urging her claims for dyes Belgium stated that her textile mills had been restored and are producing to prewar capacity. Italy stated her mills are operating to full prewar capacity. France

⁹⁸ See telegram no. 4270, Sept. 19, from the American Commission, p. 452.

stated that 75 per cent of her prewar textile workers are back at work.

7th. Inventories of stocks August 15 showed approximately 40,000 tons, of which share of Allies under treaty option is 20,000 tons. Of this amount 5,200 tons above referred to have already been apportioned. Question of reparation [*repartition*] of remaining 14,800 tons which will be available if treaty option is exercised was considered. It was suggested that the amount in weight of dyes imported from Germany by each of the five countries in 1913 including their colonies, dominions and protectorates, should be used as a basis and the remaining dyes should be divided among the five countries, each country to receive in proportion of their respective imports from Germany in 1913, with slight increases to France, Belgium and Italy, whose industry has suffered most. Statistics submitted at the meeting differed very widely and it was agreed that at a meeting to be held December 1st, each country shall have a statistician and that the statistics agreed upon by these five statisticians at a meeting among themselves to be held a day or two previously shall be accepted by the committee. As we are without such statistician it appears advisable you cable quickly amount of imports for the year 1913 into each of the five countries, their colonies, dominions, and protectorates, indicating the sources of the statistics, also if possible the German official export figures to correspond.

AMERICAN MISSION

165.102/1108 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, November 15, 1919—5 p.m.

3785. For Rathbone from War Trade Board Section.

Mission's 5062, November 7, 8 p.m. for War Trade Board from Rathbone; also Mission's 5063, November 7, 9 p.m. Rathbone R-43 for Davis.⁹⁹

I. As result of voluntary surrender by private importers of all licenses heretofore issued to them for importation of vat dyes, Textile Alliance will import entire allocated quantity. Inasmuch as only 30% of the quantity of the allocation is available from the amount already impounded, Alliance will accept certainly in substantial measure and probably *in toto* Cartel offer described in Mission's 4551, October 6, 9 p.m. from Herty to Garvan. In the absence of Fleisch please notify Von Weinberg of Cartel, c/o Leopold Cossella Company, Frankfort, that his offer to Herty will be accepted substantially if

⁹⁹ Latter not printed.

not in its entirety and that the total of orders for each color of Cartel quantities will be placed with him about the end of the month. In order that Alliance may determine the extent to which it must accept the Cartel offer, Alliance should be advised of the total quantity of each color which is available from the amount already impounded. On Monday we will cable to you total quantities of each color for which orders have been placed with Alliance. Immediately upon receipt of such information you should cable us total quantity in weight of each such color which is available from the amount already impounded.

II. Method of payment. Alliance collects entire purchase price from each consumer when consumer places order with Alliance. Dyes ordered by Alliance from Cartel will be paid for by Alliance to Cartel under terms of Cartel offer. Dyes obtainable by Alliance from impounded dyes will not be paid for until ten days after delivery of dyes to individual consumer. If dyes conform with German Government guarantee, Alliance will pay purchase price with interest, as explained in Paragraph 3 below, in[to] Reparation fund at Paris in marks. You should therefore advise us what provisions have been made by Reparation Commission for receiving such payments whether by letter of credit to a designated agency in Paris or otherwise. If present status of Reparation Commission such that it is unable to accept such payments Alliance will deposit purchase price in bank at interest in trust for Reparation Commission or in United States Treasury without interest. Advise us of wishes of Reparation Commission with respect to these three alternatives. If consumer states within ten days dyes do not comply with German Government guarantee, consumer will notify Alliance of his election to return the same or to accept rebate in purchase price. In such case irrespective of consumer's election purchase price will be held in trust for consumer or Commission by Alliance until Reparation Commission decides issue. If Reparation Commission decides that dye in such case conforms with German Government Guarantee American consumer will be governed by such decision and Alliance will pay purchase price with interest, as explained in Paragraph 3 below, to Reparation Commission in any one of the three methods described above which may be decided upon by the Reparation Commission. If Reparation Commission decides that the dye does not conform to the German Government guarantee it will advise the Alliance of the rebate that should be allowed. If consumer has elected to accept rebate Alliance will pay it to him. If consumer has elected to return the dye Alliance will return to consumer price thereof f.o.b. factory. In that case consumer being out of pocket for freight, insurance, duty, etc., will have claim against German Government to recoup disbursements. Accordingly, he will return dye to Alliance

and Alliance will hold it as security for payment by German Government of freight, insurance, duty, etc., and Reparation Commission should undertake to collect the claim from German Government in interest of consumer. When such claim is paid dye will be returned by Alliance to German manufacturer at his expense.

III. Interest on deferred payments. The question does not arise in connection with dyes obtainable from the Cartel. In the matter of the impounded dyes we conceive that it may arise in two cases.

(a) When the dye conforms with German Government guarantee and when consumer does not object within ten days after receipt of the dye by him, Alliance in making payment to Reparation Commission will include interest from the date when title passes to the date when such payment is made to the Reparation Commission.

(b) When consumer, after delivery to him, considers dye as failing to comply with German Government guarantee, and Reparation Commission does not maintain his objections. Alliance in paying Reparation Commission will include interest from date when title passes to date of such payment to Reparation Commission. Reparation Commission should therefore immediately decide when title passes.

In Mission's 5063, November 7, 9 p.m. Rathbone's R-43 to Davis, you stated that credit is to be given to Germany as of date of delivery of invoices. Please advise us immediately what delivery of the invoices you refer to, that is, delivery to whom and whether Reparation Commission believes that title will pass on said delivery of invoices. You will note Alliance will be unable to include interest in the payments unless it is advised by Reparation Commission of the date on which title passes. Alliance has already made arrangements with consumers to pay interest in these cases but wishes to be advised of the rate thereof.

IV. Department now considering successor to Herty. Selection will probably be made this week and appointee should sail early part of next week. We will cable you when definite decision is reached.

V. Referring to Paragraph 7, Mission's 5062, November 7, 8 p.m., the statistics requested therein are now being compiled and will be cabled to you in ample time for the meeting of experts which you state will be held about December first.

Snow, United States Commercial Attaché at Paris, although not a dye expert is proficient in the use of statistics. We suggest, therefore, that he should be designated as our representative to attend that meeting.

VI. Refer Department's 3575, October 27, 2 p.m.¹ and advise us immediately concerning details of German Government guarantee on impounded dyes.

¹ Not printed.

VII. In relation to Cartel dyes please advise immediately whether Cartel guarantees prices described in Mission's 4551, October 6, 9 p.m. Herty to Garvan, and also whether Cartel guarantees quality, strength, and shade of dyes and that they conform in every particular to Schultz type. Please advise also Cartel basis of adjustment of claims in order that same might be considered.

VIII. We are on the eve of making allocation six months' supply non-vat colors, which we believe will be quite successful. We will cable you in this connection when the allocation is made in order that you may advise us of the amount of such non-vat dyes as may be obtained from the impounded amount.

Davis has seen this cable and approves.

LANSING

611.626/103 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, December 24, 1919.

[Received December 25—1:37 a.m.]

1903. R-171. For War Trade Board and Davis.

"At full meeting Dyestuff Sub-commission held December 23 report statisticians was submitted, and decided that definite percentage should be arrived at as follows: German official export figures 1913 to be starting point. These to be adjusted to take account of inaccuracies due to fact that dyes to some countries are imported in unfinished state or in different concentrations and also that figures for France do not include Alsace Lorraine consumption. Consideration is also to be given to estimated needs of each country for year 1920 and approximate total by groups of our import requirements for that period will be necessary. Treaty expected come into force early in year and daily production option will at once be exercised. Expected Germans will agree modification allowing shipments of Allies' share daily production to begin at once and to provide for this contingency following figures for distribution good until end of February 1920 were agreed upon, subject to confirmation by each government involved. France urged all her reserve stocks had been stolen by Germans and tried to have above percentages submitted for six months but we stood firm for limit end February and finally satisfied her by agreeing large percentage in acid wool group to meet immediate crying need her northern textile industry. Alizarine red, British Empire 25 per cent, United States 25, France 20, Belgium 10, Italy 20. Each group that follows will give percentages in same order. Indigo 33.5, 23½, 15, 23½. Group alizarine dyes made from athrocine subdivided as follows: alizarine dyes other than red 30, 35, 15, 5, 15. Vat dyes other than indanthrene blue

[G.C.D.] 30, 40, 12½, 5, 12½. Indanthrene blue G.C.D. 35, 65, others none. Aniline dyes and other coal tar dyes subdivided direct cotton colors 25, 15, 25, 15, 20. Developed cotton colors 30, 30, 20, 5, 15. Acid wool colors 15, 15, 40, 10, 20. Chrome wool colors 30, 30, 20, 5, 15. Basic colors 30, 20, 20, 10, 20. Sulphur colors 25, 10, 20, 25, 20. Intermediate dyes and chemicals 25, 25, 20, 10, 20. These percentages do not govern distribution remaining reparation stocks, only daily production option for limited period stated and your immediate acceptance or statement of what modifications you insist on are requested so that these can be submitted to meeting December 31. As to percentage for distribution remaining stocks, nothing can be decided until information requested is furnished by all countries involved. If attempt is made to have percentages above govern, what attitude should we take? Rathbone."

WALLACE

611.626/103 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, December 29, 1919—5 p.m.

9457. Embassy's 1903 Dec. 24th, Rathbone 171.

For Rathbone. Paragraph I. We approve the figures in your cablegram as a basis for distributing dyes impounded from daily production until end of February. You should, however, make every effort to obtain following modifications. (1) The 35 percent allotment to us of alizarine dyes, other than alizarine reds, although 5 percent greater than British allotment is insufficient. The production of those dyes in this country is very small as compared with an urgent need. Besides, the British production of these dyes is in advance of our own. Accordingly our allotment should be increased from 35 to at least 40 percent. If you are unable to obtain this increase without concessions we recommend that you surrender one-half of our 10 percent allotment on sulphur colors. (2) For the same reasons our 40 percent allotment of vat dyes other than indanthrene blue G.C.D. should be increased to at least 43½ percent. To achieve this you may if necessary concede an equal percentage from our allotment of indigo bringing the same down to 20 percent. (3) From the phraseology of your cablegram we are unable to determine whether the indigoids are included in the vat dye group. If they are not, we suggest the following percentages on the basis of German export figures for 1913. Great Britain 35 percent, United States 55 percent, France 3 percent, Italy 4 percent, Belgium 3 percent.

Paragraph II. If attempt is made to have the percentages set forth in your cablegram govern the distribution of the remaining

Reparations stocks you may give your consent provided only you obtain the consent of the other countries to the modifications set forth in the preceding paragraph.

Paragraph III. We note that the percentage figures set forth in your cablegram are not predicated strictly and exclusively on the German export figures to the five countries in 1913 but that they result to an appreciable extent from an inquiry into the respective needs of those countries. In this connection we again direct your attention to the comments in Department's 9362, December 17, 6 P.M.¹ and suggest that when the matter is ultimately presented to the Committee on Organization for final decision that you urge that the distribution be made strictly and exclusively on the basis of the German export figures for 1913. Should you succeed there would seem to be no reason for not permitting the percentages so determine[d] upon to prevail over an extended period of time. Contrary-wise, should the Organization Committee accept the recommendation of the Expert Committee and decide to predicate the allotment figures not only on the German exports for 1913 but also on the respective needs of the five countries, we assume that you are impressed by the inadvisability in that case of permitting the percentages of distribution to prevail over any considerable period of time. In that case the figures should be modified from time to time to meet the changes in the respective needs of the five countries.

Paragraph IV. If Germany agrees to permit shipments of Allies' share daily production to begin at once Stephenson should be kept constantly informed in order that he may, if possible and desirable, fill orders from that source.

Paragraph V. Your request to be advised of our import requirements for the year 1920 has already been answered in Department's 9362, December 17, 6 P.M. But in this connection again we direct your attention to the inadvisability of tempering the German export figures by any consideration of the needs of the five countries.

LANSING

611.626/107 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 6, 1920.

[Received January 7—1:53 a.m.]

43. R-198. For War Trade Board and Davis.

1st. At meeting dyestuff experts today British refused to accept percentages cabled in our R-171² and urged acceptance percentages

¹ Not printed.

² *Ante*, p. 472.

cabled in our 5529, December 3, noon [*December 2, 3 p.m.*], our R-112,³ which gave British Empire 35 per cent, United States 24 per cent. We refused. In order to avoid further delay, other Allies agreed to allow British Empire 35 per cent throughout and to reduce their percentages allowing United States to retain percentages cabled in R-171 and allowing increase for United States to 40 per cent in group alizarin[e] dyes, other than red, and to 42 per cent in group vat dyes other than indanthrene blue, as requested in your 9457 green undated. Group indigo, means only synthetic indigo and original percentages were British Empire 33, United States 5, Belgium 10, France and Italy each 23½, this remains unchanged for United States. Your 9475 [9457] would seem to indicate you understood our figure for indigo to be 23½. Indigoes are included in group vat dyes other than indanthrene. New group was added namely: lake colors with following percentages: British Empire 35, United States 35, France 15, Italy 10, Belgium 5.

In view large concessions made to United States by France, Italy, Belgium would be good policy for us to voluntarily reduce in favor of those three countries any percentage we can without injury to our industries and we would appreciate your suggestions to this end.

Percentages now formally accepted govern distribution daily production option until end February and experts agree these percentages must be revised periodically. It is proposed at once to request Germany furnish her production figures of all dyes for 1912 and 1913. Based on these, Allies will ask for 25 per cent or power [*or more?*] normal production and suggest Germany begin supplying at once dyes from daily production under same terms as 5200 ton option, that is without considering this an actual exercise of treaty daily production option. Program of manufacture to be based on as small list of dyes as possible, probably not more than 150 is to be determined at next meeting, February 2d, at which time percentages for distribution remaining reparation stock will also be determined.

2d. Entirely impossible to persuade other Allies to base percentages solely on German export figures, they absolutely insist actual needs must be taken into consideration. We consider we have won very important point in securing division into groups and if we insist on fighting for basis you want it would probably result in one general percentage for all dyes. France, Italy and Belgium will do all they can to favor us, but physically we are rich enough to buy open market when we cannot get full percentage shown by German export figures of 1913 and that they should not be forced to do so considering how much their textile industry has suffered whilst

³ Not printed.

ours went on as usual and we were able to build up important dyes industry.

3d. Answering paragraph 6. Our R-163, December 22,⁴ gave result statisticians meeting which was subsequently modified by full meeting Dyestuff Subcommittee [as] reported in our R-171 December 24.

4th. This cable has been prepared in cooperation with Jacoby⁵ who feels that taking everything into consideration United States has received favorable treatment in allocation as above, particularly as precedent established of division into large number of groups will enable trading with France, Italy and Belgium and possibly with British Empire on particular products. Rathbone.

WALLACE

611.626/107a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, January 7, 1920—3 p.m.

34. For Rathbone.

Please transmit under signature of Frank L. Polk, following letter to Chairman of German Peace Delegation:

"In my letter of November 25, 1919,⁴ it was stated that the Textile Alliance, Incorporated, of New York, had been designated by the United States Government as the exclusive importing agency not only for the dyes arranged for at the meeting with the German Delegation at Versailles on October 4, 1919, but also for dyes other than those covered by such official negotiations. That statement in so far as it refers to dyes other than those covered by the negotiations of October 4 was predicated on a misinterpretation of cable advices to me from Washington. Since my return to the United States I have been informed that although importation of impounded dyes through the Textile Alliance is mandatory, the importation through the Textile Alliance of dyes other than impounded dyes is optional with the consumer and not mandatory. But the Textile Alliance has been designated as the exclusive accredited representative of the United States Government to carry to a conclusion the arrangements heretofore made with Dr. Von Weinberg by Dr. Charles H. Herty. As the result of the voluntary surrender by private importers of licenses issued to them the Textile Alliance will, in fact, import practically all of the vat dyes, the importation of which has been licensed to satisfy the requirements of consumers in the United States for the six months' period ending April 15, 1920. As a result of election on the

⁴Not printed.

⁵Dr. Areli H. Jacoby, dye expert.

part of consumers in the United States the Textile Alliance will also in fact import practically all of the non-vat dyes for which licenses have been issued to satisfy the requirements of American consumers for the six months' period ending May 15, 1920. I beg therefore that you will consider the foregoing in modification of the statements contained in my letter of November 25. I have the honor to be, Sir, Your obedient servant."

LANSING

611.626/107 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, January 13, 1920—2 p.m.

94. For Rathbone from War Trade Board

Embassy's 43, January 6, Rathbone 198, for War Trade Board and Davis.

Paragraph 1. Although we persist in the opinion that the German export figures for 1913 should be the exclusive basis of distribution we concur in your belief that for the time being we should not insist thereon.

Paragraph 2. We are reluctant to surrender at this time such percentage of our allotments as could be spared without injury to our industries in as much as we may desire at a future time to use the same in obtaining further particular concession. In this instance we believe that good policy should yield to expediency.

Paragraph 3. We do not thoroughly understand your statement that the program of manufacture shall be limited to a small list of dyes probably not more than 150. Are we to understand that there is in contemplation a program of manufacture for the entire five years limited to 150 dyes?

Paragraph 4. We are preparing list of dyes required for our consumption in preferential order and will cable same to you as soon as possible.

Paragraph 5. Please advise whether it is possible for Stephenson to fill orders from daily production stocks.

Paragraph 6. Please advise whether you surrendered any part of our allotment of sulphur colors in exchange for 5 per cent increase in our allotment of alizarine dyes other than alizarine reds.

Paragraph 7. Percentages of distribution for new group of lake colors mentioned in your cablegram are approved.

Paragraph 8. Please cable immediately whether our Reparation dyes already ordered have begun to move.

LANSING

611.626/111 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 15, 1920—5 p.m.

[Received January 16—3:17 p.m.]

157. R-220. For War Trade Board and Davis.

Referring to Department's 94 green January 13, paragraph 3. Program of manufacture now being considered is only for the first six months. Will be revised every six months at least. It is not in any way contemplated to limit German factories to the 150 or so colors given but merely to assure that minimum requirements of Allies will be filled. If this were not done opinion is Germans would largely confine themselves to manufacture of such colors as they can sell to neutrals at higher prices.

5. No orders can be given to be filled out of daily production or until arrangements are made in conference with German experts. They could not get to Paris this week but are to be here next week when question will be discussed. As Herty option now expires February 1st Stephenson is placing all orders under this option as a guide in view of uncertainty as to when they could be even partially filled from treaty daily production option.

6. No.

8. Stephenson's assistant has just returned from Frankfort and states goods are ready but from personal investigation knows they cannot be shipped account railroad strike and flood condition Rhine. Returns Frankfort tomorrow and will stay to hurry deliveries which he believes can begin next week if Rhine water[s] recede as expected. Rathbone.

WALLACE

611.626/115 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 24, 1920—10 p.m.

[Received January 25—11:55 a.m.]

256. For War Trade Board and Davis. R-243.

1st. Referring to our R-214.⁶ In interview today between Weinberg, Stephenson and Jacoby, Weinberg intimated individual factories had somewhat changed their attitude since receipt of letter from Mr. Polk and he feared that possibly Badi Pymont might be inclined to delay Textiles Cartel orders in favor of any orders they might receive from Kuttroff Pickhardt. Weinberg assured them he

⁶ Not printed; see the Department's telegram no. 34, Jan. 7, p. 476.

would carry out contract loyally as far as his own factory is concerned but could not altogether answer for others although he would bring all possible pressure to bear.

2d. Belgian Delegate on Reparation Commission intends urging Commission to make ruling binding all Allies participating in dye stuffs options that they will not order goods beyond amount needed for home consumption and will not reexport them. Cable at once what attitude we should take. Rathbone.

WALLACE

611.626/115 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, January 31, 1920—3 p.m.

252. For Rathbone from War Trade Board and Davis.

Paragraph 1. We are in entire accord with the recommendation of the Belgian Delegate referred to in the second paragraph of Embassy's 256, January 24, 10 p.m. R-243, provided the Allied countries will give definite assurances that they will not draw on their respective allotments beyond the amount required for domestic consumption and provided some practical plan can be devised which will give reasonable assurance of being carried out in good faith, and which will not give any one country an undue advantage. If such assurances are given and if such plan can be devised then you should urge the adoption of the policies enunciated in Paragraphs 2 and 3 below.

Paragraph 2. With respect to the dyestuffs and chemical drugs provided for in Paragraph 1 of Annex VI the Allied countries should draw on their allotments only to satisfy their requirements for domestic consumption. The balance of these allotments should be sold by the Reparation Commission at the best price and the Reparation Commission should credit Germany with the proceeds of the resales. In other words, with respect to the 20,000 tons of stocks on hand, the Reparation Commission, after having disposed at the list price of such part thereof to the Allied countries as may be required for their domestic consumption, should dispose of the balance at the real market price and credit Germany with an amount corresponding to the proceeds thus obtained. The effect of this policy would be to immediately place a large sum at the disposal of the Reparation Commission and will accelerate a reimbursement to the Allies for the expenses incurred by them in maintaining the Armies of Occupation.

Paragraph 3. Similarly, with respect to the dyestuffs and chemical drugs provided for in Paragraph 2 of Annex VI, the Allied

countries should draw on their allotments only to satisfy their individual requirements for domestic consumption. In this case however, the balance should be surrendered to Germany to be disposed of by Germany without restriction. The effect of this policy would be to enable Germany to dispose of a larger surplus of dyestuffs and chemicals at much higher prices to which in our opinion she is entitled, and by thus increasing her general economic resources it would facilitate her in making the gold payments which she is required to make under the terms of the treaty.

Paragraph 4. If the Allied countries will not give the definite assurances which are referred to above or if the practical plan referred to above cannot be devised, then you are authorized to state that this Government proposes to exhaust all of the allotments which will be accorded to it under both Paragraph 1 and Paragraph 2 of Annex VI, irrespective of whether or not those allotments are in excess of our domestic requirements for consumption and that we will make whatever disposition thereof we deem expedient. In the event that we should find it necessary in the absence of the assurances or of the plan referred to above to exhaust all of our allotments from the stocks on hand as well as from the daily production, it is our present intention not to derive profit from the resale of the surpluses beyond what will be required to satisfy our needs for domestic consumption, at the expense of Germany but to impute the profits derived from the resale of our surpluses to the payment of Germany's debt to us. Thus we might impute the profits from the resale of the surpluses to defraying the costs of maintaining our Armies of Occupation or to the payment of any other debt owed by Germany to this Government or to its nationals.

Paragraph 5. It is our belief that the option clauses of the Treaty relating to dyes and chemicals were intended only to supply the Allied Governments at reasonable price with dyes and chemicals actually required by each for its domestic consumption and were not intended to yield unreasonable profits to the Allied countries at the expense of Germany.

Paragraph 6. You should advise us immediately of the date on which our option on our allotment of 1,500 tons of the 5,000 tons of stocks on hand already impounded will expire.

Paragraph 7. The questions herein raised should be accorded the promptest consideration in order that dye users and dye makers throughout the world should be informed as soon as possible of the disposition that will be made of these large stocks and make their plans accordingly.

LANSING

611.626/120 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 31, 1920—10 p.m.

[Received February 2—11:58 p.m.]

324. For War Trade Board and Davis. R-277.

1st. German dye experts propose we disregard strict interpretation 25 per cent option clauses and measures of control which paragraphs 3 and 4 of annex VI give us. In return Germans would agree to fill all *bona fide* needs Allies even beyond 25 per cent of normal daily production to be invoiced at prices not greater than those quoted during month of delivery to any other purchaser, German, neutral or Allied and to [be credited to?] reparation account, would also give Allies' needs priority over all others but would want *bona fide* needs of German textile industry to be considered on same footing as Allies'. Tentatively dyestuff sub-commission has agreed whilst reserving all rights in treaty to try this out. By March 1st Allies are all to furnish list of their needs for April, May, June. Before April 1st Germany to advise us what they can deliver and at what prices and also what raw materials they may need to fill balance. This proposal of Germany, with favorable recommendation of dyestuff sub-commission, will come before Reparation Commission as soon as it is finally formulated. If Germans show goods and arrangement works satisfactorily it would be continued from time to time, if not we would demand strict compliance with treaty clauses but in that case no goods from 25 per cent option could be ordered until stipulated first six months' period had elapsed when Germans would have to furnish list of what had been manufactured and we would base our orders on this list. Also Germans contended normal production cannot be considered to be normal pre-war production and this would cause endless discussion and might result in our legitimate needs not being satisfied. By above agreement we cannot yet state just what we wanted manufactured and they would fill all the legitimate home needs of each country. However, Germans intimate that a condition of their agreeing to above modification would be an undertaking on the part of the Allies that dyes so supplied would not be reexported. This condition would not apply to delivery of what remains available under 50 per cent option.

[2d.] As mentioned in our R-243, first [*second*] paragraph,^a Belgians are also urging ruling forbidding reexportation reparation dyes because of rumors British have fund two and a half million sterling to buy up all available dyes and because recent orders from them and French to British dyes factories have been filled with German goods.

^a*Ante*, 478.

3d. We feel it would be difficult for United States Government to guarantee reparation dyes would not be reexported but believe Germans and Belgians would be satisfied if individual consignees of reparation dyes signed agreement to that effect.

4th. Pending conclusion agreement outlined [in] 1: In order to allow Allies to fill immediate needs for dyestuffs Germans have signed statement pledging themselves to give absolute priority over everybody, themselves included, to orders of Allies up to 25 per cent of their present daily production. These orders to be filled at lowest price quoted for cash f.o.b., factory. In return we are to agree to release present control over their factories in occupied territory which Rhineland Commission is still provisionally exercising without any real legal right. At any time if Germans do not act in good faith right of Reparation Commission to reestablish control is reserved. This temporary arrangement has been approved by dyestuff sub-commission and is on agenda of Reparation Commission.

5th. As Jacoby fully approves of arrangements above indicated I shall make no objection to Reparation [Commission] following recommendations of dyestuff sub-commission unless you instruct to the contrary.

6th. Germans in conference yesterday brought up difference between English and French text of paragraph 5 of annex VI and claimed English version was the more correct and the one they were guided by. We informed our jurists thought the contrary as mentioned in our R-239.⁷ They are to submit their arguments in writing and Reparation Commission will consider both sides and make ruling. French version gives us wider latitude regarding intermediates and other products.

7th. Shipment Reparation vat dyes began January 23 and should be completed two weeks from that time. Reparation non-vat expected to begin moving week February 2nd. Cartel goods ready to begin moving and merely awaiting conclusion proper banking arrangements about which Stephenson has cabled textiles [*Textile Alliance*].

8th. The following agreement signed January 28th:

"Hards Stephenson, representing the dollar credit with a bank in Amsterdam to be later designated, which bank will pay in dollars all amounts due for dyes ordered by the Textile Alliance under the Herty offer immediately upon presentation to it of the proper documents. It is further agreed that on or after July 1st, 1920, the Textile Alliance has the privilege of cancelling any orders for any quantities placed under the Herty offer remaining undelivered at the time. It is further agreed that the German dye manufacturers will furnish to the Textile Alliance standard type samples of each and every color immediately upon shipment of the first lot of each color."

⁷ Not printed.

9th. Important you cable us promptly your views in regard to above matters and answer our R-239 paragraph 7. Rathbone.

WALLACE

611.626/128a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 10, 1920—4 p.m.

325. For Rathbone from War Trade Board and Davis.

This cablegram expresses views and recommendations of War Trade Board and Davis concerning entire question of delivery and distribution of dyestuffs and chemical drugs by Germany under paragraphs 1 and 2 of annex VI.

Part I. Embassy's 324 January 31 10 p.m. R-277. We approve the acceptance of the German proposal with relation to deliveries under paragraph 2 of annex VI. It seems clear that such acceptance would result in partial modification of Versailles arrangement of October 2 and 4, which provided that Germany would be credited for all deliveries under paragraphs 1 and 2 of annex VI at the German list prices but on terms of the current exchange rate for the mark. Such result is desirable for two reasons. (a) Whatever the purpose of the option clauses in the treaty may have been, it is fair and advisable from the point of view of reparations that Germany should be credited with the real value of her deliveries as is contemplated in article 236 of part VIII, and in paragraph 3 of annex VI. (b) On the other hand, such result is essential to protect the dye and drug producing industries in the Allied and Associated countries from the improvident arrangement of October 2 and 4, whereby these commodities could be dumped on the markets of the world, including those of the Allied and Associated Governments at prices from 7 to 20 times less than their real value. Accordingly, the German proposal should be accepted for all times if Germany will live up to her guaranties under it.

However, with respect to the guaranty against re-exportation intimated in the proposal, it should be observed that it will be impossible for this Government to give such explicit guarantee in absence of appropriate legislation. Therefore, in lieu of such explicit guarantee, you may give assurances that this Government, during the existence of the arrangement resulting from the acceptance of the German proposal, will be careful to limit its demand for deliveries under paragraph 2 of annex VI to its actual needs for domestic consumption.

We assume, of course, that German proposal includes all dyestuffs and chemical drugs described in the French text of paragraph 5 of annex VI.

Replying further to your R-277, it is difficult for us at this time to say what our needs for dyestuffs and chemical drugs will be for April, May and June. However, you may advise Jacoby that with respect to dyestuffs our needs in a general way for these three months should be at least one-half of the quantity of each dyestuff specified in the list which he has of vat and non-vat dyes for which we made allocations in October last. In this connection, Jacoby should make no deductions from that one-half on account of any quantity of dyestuffs which may be allotted to us from the 20,000 tons of stocks on hand. The reason follows: When those stocks are impounded, our internal control may not authorize the importation of any quantity from our allotments, in which case they would go by default. With regard to our needs for chemical drugs for the three months to be supplied from daily production, see part III below.

Part II. Deals with the delivery of dyestuffs and chemical drugs under paragraph 1 of annex VI. These are not included in the German proposal. Therefore, they are still governed by the arrangement of October 2 and 4. With respect to them the danger of non-competitive dumping referred to in part I still persists. Accordingly, we suggest advisability of eliciting promptest adoption of policy by Reparation Committee along following general lines. Whatever policy is adopted should insure against this danger. We suggest two following alternative procedures to attain the desired end.

A. Each country should give assurances that it will not draw on its allotments in excess of its actual quantitative requirements for domestic consumption. The surplus of the allotments to each country should be tendered to the other countries to make up any deficit in their requirements for domestic consumption which could not be filled from their original allotments. Thereafter, the ultimate surpluses should be disposed of for account of the Reparation Commission at their real value, either by the Reparation Commission, by Germany or by the Allied and Associated countries at prices to be fixed by the Reparation Commission, the proceeds to be paid into the reparation fund and Germany credited accordingly.

B. If the Allied and Associated Governments will not give the assurances referred to in A above, or if a plan cannot be devised giving reasonable promise that such assurances will be carried out in good faith, then the following procedure shall be adopted: Each Allied and Associated Government should give assurances that, having exhausted its entire allotments, it will not dispose, nor permit the disposition of any part of such allotments in any other country of the world, except for the real value of the commodities, the prices to be under the supervision of the Reparation Commission. In such

case, each Allied and Associated Government, if it desired, could apply the proceeds beyond the cost to the payment of Germany's debt either to the particular country or to its nationals. For a statement of the present intentions of this Government in that contingency, see paragraph 4 of Department's 252, January 31. This latter procedure presents administrative difficulties. For instance, in our own case, in the absence of an appropriate agency, we would experience difficulty in enforcing resales outside of this country at competitive prices. But, we feel that if procedure A is not adopted, procedure B is the only one that will insure against non-competitive dumping.

We believe procedure A is more desirable from the standpoint of treaty construction and from the standpoint of safety to domestic industries. Besides, in view of Embassy's 383, February 6, 4 p.m., R-294,^s it should be the more acceptable to France, Italy and Belgium. For it insures to these three countries a surplus beyond their original allotments from which they might draw to make up any deficit in their original allotments for domestic consumption. Any suggestion by France, Italy or Belgium that such deficit in their original allotments should be provided for when the original allotments are made should be met with the following statements:

(1)—The percentages of distribution have already been fixed and have been approved by France, Italy and Belgium. See Embassy's 352, February 2, 9 p.m., R-288.^s

(2)—An original distribution on the basis of the respective needs of the five Allied and Associated countries would involve most careful and elaborate investigations into constantly varying production, consumption and substitution of each commodity in each country.

(3)—The internal control over imports in any one country prevents a determination in advance of domestic requirements.

Under procedure A, France, Italy and Belgium may make up any deficit in their requirements for domestic consumption from the large surpluses which will be left over from British and American allotments.

We do not know whether procedure A can be adopted in time to include within its scope the 5,000 tons of dye stocks on hand already impounded. If not, then procedure B should be adopted in respect thereto.

Part III. Referring to paragraph 7 of Embassy's 236, January 23, 9 p.m., R-239,^s we are now investigating our quantitative requirements for chemical drugs detailed in list which accompanied your letter of December 10.^s We will not be able to advise you of extent to which we will exercise option on the quantities of chemical drugs

^sNot printed.

specified therein or for the chemical drugs to be delivered under paragraph 2 of annex VI, until such investigation is completed in about 15 days. We will also cable you our recommendations concerning basis for distribution. Meantime refer to Embassy's 111, January 12, 8 p.m., R-209,⁹ and cable us list number 2 of drugs not listed, and list number 3 of intermediates not listed.

Part IV. The length of this cablegram reflects the importance we attach to its subject matter. In view of present control and of pending legislation, non-competitive dumping would be no menace to our dye producing industries except in foreign countries where our domestic products are sold. But we view with grave apprehension the possible dumping, particularly in this country and in foreign markets of chemical drugs from Reparation sources at prices with which our drug producing industries could not hope to compete.

Part V. To the extent to which this cablegram conflicts with the views expressed in Department's 252, January 31, and in memo of War Trade Board forwarded last week to Rathbone by Davis, entitled "Dyestuffs and Chemical Drugs, a Paradox in Reparations",⁹ it should be construed as a modification of both.

LANSING

611.626/133 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, February 17, 1920—9 p.m.

[Received February 19—6:40 p.m.]

494. R-328, for War Trade Board and Davis.

(1) Referring to Department's 325, February 10, 4 p.m. Your part I. German proposal, our R-277, has no connection whatever with Versailles arrangement of October 4. Arrangement of October 4th did not state that all deliveries under paragraph 1 and 2 of annex VI would be credited at German list prices at current exchange rate. It only provided for prompt delivery to Allies of dyestuffs urgently needed up to an amount not to exceed 5,200 tons out of impounded stocks. It was understood that current exchange rate would apply to this lot and all Allied Governments have acted accordingly, including United States, as Textile [Alliance] have taken orders from consumers for reparation dyes on this basis. Any surplus from this 5,200 tons not taken by Allies will revert to balance of impounded stocks and will be allocated according to our

⁹ Not printed.

R-288.¹⁰ Question of exchange rate for this balance has not been discussed by sub-commission nor settled by Reparation Commission but we believe majority of sub-commission is in favor of current exchange rate for all impounded stocks. Treaty does not, however, require use of current exchange in fixing values. The list prices of dyestuffs in inventory of impounded stocks were fixed by Germans and represented prices they were quoting to others at that time and they doubtless took into consideration current exchange rate in making prices. Exchange rate not discussed in connection with German proposal our 277 but as it provides that Allies pay lowest price quoted it can safely be expected that Germans will consider exchange rate in quoting any prices.

Your part I (b). You state impossible for the United States Government to guarantee against re-exportation or to give assurances that we will limit our demands to actual needs. Under these circumstances it would seem impossible for us to urge other Allies to adopt either procedure A or B. Your part II will imply the very assurances you refuse to give. German proposal refers only to dyestuffs. Please note that both Allies and Germans have separate and distinct committees for dyestuffs and pharmaceuticals.

Jacoby cannot use War Trade Board allocations of October alone in drawing up manufacturing program as these lists do not give exact brands but will use these lists in connection with orders actually placed by Textile. In this connection you should consider some method by which consumers can order against quantities asked for in this program either through our Textile or some Government agency.

Your part II, arrangement of October does not in any way govern distribution remaining stocks under paragraph 1 annex VI.

Procedure A. This in general is view of dyestuffs sub-commission and it is expected that Allies will trade products but as entire stock is only 20,000 tons against conceded consumption of 80,000 tons by five countries, it is evident that any surplus will be mainly junk, see our R-294, paragraph 7.¹⁰

Procedure and administrative difficulties too great and also we could not urge this in view of our inability to carry issues out ourselves.

Your part II paragraph 3, neither procedure can be made to cover 5,200 tons.

Your part III, pharmaceutical products will require same procedure as dyestuffs. One method of distribution for stocks, another for daily production, possibly program of manufacture may also be wanted. Useless to cable lists 2 and 3, which were mailed to

¹⁰ Not printed.

Department January 23rd.¹¹ In this connection see also our R-306.¹¹ List 3 contains only pharmaceutical intermediates not colorings as you state.

Your part IV. You can not expect Reparation Commission to protect United States dye or drug producing industries in foreign markets and if menace is serious for United States market in drugs, suggest same method of control as now used for dyestuffs.

(2) Jacoby sails March 6th as technical dyestuff matters are in good shape and suggests that if you send another expert he should act both as adviser on dyestuffs and pharmaceuticals and also handle Textile matters.

(3) It is absolutely essential that some one be sent to take Jacoby's place and that he reach here before Jacoby leaves. I have not the time to personally examine into these dyestuffs matters and must continue to have some one to handle same upon whom I can confidentially and wholly rely. Rathbone.

WALLACE

611.626/133: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, February 26, 1920—5 p.m.

425. For Rathbone from War Trade Board and Davis.

Embassy's 494, February 17, 9 p.m. R-328.

Paragraph 1. It appears from your cablegram that we were misinformed by Dr. Herty concerning the effect of the Versailles arrangement with regard to rates of exchange. In view however, of your statement that the Reparation Commission is likely to favor current exchange rate for all impounded stocks of dyestuffs and chemical drugs, the observations in Department's 325, February 10, 4 p.m. would seem to be still pertinent.

Paragraph 2. It is obvious from the statements in your cablegram that Department's 325, February 10, 4 p.m. was garbled. The last half of paragraph 6 of part I of our cablegram should have read as follows: "however with respect to the guarantee against reexportation intimated in the German proposal it should be observed that it would be impossible for this Government to give such explicit guarantee in the absence of appropriate legislation. Therefore, in lieu of such explicit guarantee you may give assurances that this Government, during the exercise [*existence*] of the arrangements resulting from the acceptance of the German proposal, will be careful to limit its demands for deliveries under paragraph 2 of annex VI to its actual

¹¹ Not printed.

needs for domestic consumption." By implication our cablegram was intended to convey to you the fact that with respect to stocks on hand this Government, in the event of the adoption of procedure A, although it could give no explicit guarantee against reexportation, would be careful to limit its exercise of the option to its actual needs for domestic consumption. With this explanation we assume, in view of your comments on procedure A which are set forth in your cablegram, that you will not find it impossible to urge the allied Governments to adopt procedure A.

Paragraph 3. The adoption of procedure A or procedure B would seem to be very essential for although the entire stocks on hand represent only one-fourth of the conceded total consumptive needs of the five countries, the allotments to each particular country may be in excess of the requirements of that particular country for domestic consumption.

Paragraph 4. With regard to your suggestions that this country should adopt the same method of control over chemical drugs as now exists over dyestuffs, please note that (1) the War Trade Board's powers will cease immediately upon ratification of peace and that (2) confidentially, Congress is not likely to adopt protective measures against results of operation of treaty of peace until treaty is ratified.

Paragraph 5. We should be advised immediately with respect to the following: First. What rate of exchange will prevail with relation to distribution remaining stocks on hand of dyestuffs and chemical drugs. Second. Since German proposal does not relate to chemical drugs what rate of exchange will prevail with relation to deliveries of chemical drugs under paragraph 2 of annex VI.

Paragraph 6. We are making every effort to find successor to Jacoby and hope to find someone within next two or three days. We appreciate conditions in Paris and will make every possible effort to expedite his sailing.

POLK

611.626/133 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, *March 10, 1920—6 p.m.*

505. For Rathbone from War Trade Board.

Paragraph 1. Recent cablegrams from you have created confusion in our minds with relation to the prices at which commodities delivered under Annex VI will become available to the Allied and Associated countries. Until the receipt of Embassy's 494, February 17,

R-328, it had always been our belief from information received by cablegram and from Herty after his return that all deliveries under paragraphs 1 and 2 from the dyestuff list of August and pharmaceutical list of September, would be at the current rate of exchange. Embassy's 494, referring to balance of stocks on hand states that the question of exchange has not been discussed nor settled. On the other hand, Embassy's 584, February 7, R-370,¹² states that it was clearly understood between the Allies and the Germans that the credit for all deliveries under the dyestuff list of August 15 was to be made on the basis of the current rate of exchange.

Paragraph 2. It is impossible for us to advise you of the extent to which consumers of dyestuffs and pharmaceuticals in this country will avail themselves of the options until we are in a position to advise them of the prices at which these articles may be obtained. Accordingly please notify us immediately with relation to the following inquiries:

(a) Will the remaining stocks on hand of dyestuffs be made available at the dyestuff list price but at the current rate of exchange?

(b) Will the existing stocks of pharmaceuticals be made available at the pharmaceutical list price but at the current rate of exchange?

(c) Will pharmaceutical products from stocks to be produced be made available at pharmaceutical list price and at current rate of exchange?

(d) With relation to deliveries of dyestuffs from stocks to be produced it is our understanding that German proposal referred to in Embassy's 324, January 31, 10 p.m. R-277, has been tentatively accepted and that under its terms dyestuffs to be delivered from stocks to be produced will be delivered at their real value without regard to the dyestuff list price or to the current rate of exchange. Please confirm.

POLK

611.626/154: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 18, 1920—3 p.m.

[Received March 19—1:18 p. m.]

743. R-431 for Davis and War Trade Board. Department's 505, March 10, 6 p.m.

1st. Dyestuffs from Germany under annex VI, paragraph 1 and 2, fall into three divisions: (a) the 5,200 ton lot from the impounded

¹² Not printed.

stocks according to protocol November 3d; (b) the balance due Allies from impounded stocks; and (c) daily production.

2d. Concerning prices 5,200 ton lot: (a) protocol November 3d provides that German delegation will carry out delivery of dyestuffs in accordance with following details. United States will immediately accept delivery of 500 tons and reserves right of taking later supplementary delivery of 1000 tons, prices which appear in list of August 15, 1919, are to be understood as prices for delivery in original barrels of at least 150 kilos net, free in works, barrels not returned; (b) extra charge allowed for delivery in smaller containers; (c) list of August 15 quotes prices in paper marks; (d) this covers the 1200 tons still due us. Careful inquiry here among representatives of various nations who discussed this protocol with Germany, confirm their understanding that rate of exchange to be applied on deliveries dyestuffs from 5,200 ton lot is rate of exchange on date of delivery, that is to say, date of bill of lading.

3d. Prices balance impounded stocks are prices which appear in list of August 15 mentioned above. It was general understanding of those charged by various governments with dyestuffs matters that rate of exchange date of delivery would also apply to balance impounded stocks.

4th. Prices daily production covered by following agreement of January 30 (see my R-277¹³) formally accepted by Bergmann for German Government February 20th, 1920.

"The German Government undertakes, pending the final execution of the agreement which was discussed at the meeting of the dyestuff [subcommission] of the Reparation Commission January 28, 1920, which agreement must be finally executed by April 30, 1920, to see that the various dyestuff factories in Germany will deliver to the United States of America, to the United Kingdom, France, Italy and Belgium, such dyestuffs as these countries ask for by priority on all other deliveries for Germans or others up to 25 per cent of the daily production. The prices at which these dyestuffs will be delivered shall be the lowest at which these same dyestuffs have been delivered during the previous month to any buyer, German or other. These deliveries will be credited to Germany in reparation account. On the other hand the Reparation Commission binds itself to suspend immediately the control which is at present exercised on the dyestuff factories. It however reserves the right to reestablish this control whenever it may consider it necessary."

Germans have been requested to furnish prices at which they will deliver dyestuffs under this agreement.

5th. Pharmaceuticals from Germany under annex VI, paragraphs 1 and 2, fall into two divisions: (a) impounded stocks which appear

¹³ *Ante*, p. 481.

in list of September in which prices are quoted in paper marks; (b) daily production.

6th. Were it not for the considerations hereafter mentioned foregoing would furnish explicit answers to your questions (a) and (b). In regard to your question (c), list price has nothing to do with the daily production, price will probably be fixed as for daily production of dyes. Regarding your question (d) your understanding is correct.

7th. It is only Reparation Commission that can finally decide credit to be given Germany on reparations for deliveries of commodities under annexes and Commission has not yet either adopted general principles to govern nor passed upon these particular dyestuffs matters. The general question is of great importance and highly complex. It will be recalled that it has been United States opinion that Germany should be credited with fair value for deliveries under annexes and that owing to abnormal conditions a paper mark price converted at current exchange rates would not in general at least for a time operate to give Germany sufficient credits for its reparation account for deliveries under annexes. On the other hand so far as crediting Germany for deliveries of dyestuffs and pharmaceutical products is concerned, as situation in respect to deliveries made and being made is substantially same for all countries concerned, it is most particular [*sic*] that Reparation Commission will make no decision that will operate to alter credits to be given Germany on basis set forth in previous paragraphs of this cable. I am taking steps to bring up this question so far as past and current deliveries of dyestuffs and pharmaceutical products are concerned through dyestuffs sub-committee and finance service. It may, however, be impossible to obtain a decision of Commission on this point for some time.

8th. Replying more in detail to your paragraph 1, Herty's understanding undoubtedly same as that of all others who are directly concerned with matters in question both American and of other nationalities and who have negotiated with Germans on the subject, nevertheless, as stated above and in my R-328,¹² Reparation Commission has not yet directly passed on matter of what credit is to be given Germany for these deliveries. As stated in preceding paragraph it is most improbable that Commission will as to past and current deliveries give credit to Germany greater than that to which Germans have apparently assented and upon faith of which presumably all governments participating in deliveries have made sales to their nationals. Rathbone.

WALLACE

¹² *Ante*, p. 486.

611.626/149 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, March 24, 1920—10 a.m.

594. For Rathbone from War Trade Board and Davis. This cablegram is very urgent and should be referred immediately to Rathbone. Embassy's 707, March 13, noon, your R-421.¹³

Paragraph 1. You state in Paragraph 7 that unless we place orders immediately for dyestuffs to be filled from the remaining 1200 tons of our allotment under the 5200 ton agreement, that those 1200 tons of our unused balance will be turned into the remaining 5000 ton pool and redistributed among the Allied and Associated countries. Harold and Chapin will take the position that the allotment referred to above is subject to disposition by the United States alone and that the Allies would be accountable to the United States for any action they may take with respect thereto contrary to the wishes of the United States. Accordingly, Harold and Chapin will take the position that those 1200 tons of dyestuffs must be held by Germany subject to future orders from the United States. We have on several occasions recommended that a procedure be adopted by the Allied and Associated Governments which would insure that no one country would draw on its allotment in excess of the quantities required for its individual consumption. If the other Allied and Associated countries had been disposed to give assurances that they would not draw on their allotments except to the extent required to satisfy their needs for domestic consumption, we would have given similar assurances most willingly. Indeed we urged the adoption of such procedure. The procedure and the assurances referred to above have not been given by the Allied and Associated Governments and it now appears that some of the countries have already exhausted their entire allotments. Accordingly, this Government will act as it may see fit with regard to its allotment. For your confidential information should statement be made that our participation in the options under Annex VI should be less favorable than the position of those Governments who have ratified the Treaty, it should be noted that in the first place we may yet ratify the Treaty of Versailles and that therefore the United States Government will not, in the meantime, permit derogation of its rights.

Paragraph 2. We were not advised that the Sub-Committee had jurisdiction to decide the important matter of the disposition of any country's allotment. If the Sub-Committee has the jurisdiction and if Harold and Chapin are unable to make plain the position of the United States, a postponement of decision by the Sub-Committee should be obtained until the arrival of Perret, Chief of War Trade

¹³ Not printed.

Board, who sails for Paris on the *Savoie* on Saturday, March 27th. It is particularly necessary at this juncture that Harold should not adopt a weak attitude.

Paragraph 3. The matters referred to in this cablegram have been discussed with Polk who approves of its contents.

COLBY

611.626/163 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, March 29, 1920—11 p.m.

[Received March 30—10:45 p.m.]

851. R-471. For War Trade Board and Davis. Department's 594 March 24, 10 a.m.

1. Perret will arrive too late. Immediate action necessary in America enable placing orders and arranging payment for 1,200 tons.

2. Department is mistaken in assuming that United States has permanent right 1,200 tons from 5,200 tons agreement. It was definitely decided by dyestuff sub-commission that all amounts not ordered before March 31 would go back into pool, this was agreed to by Jacoby.

3. Fifty two hundred ton agreement protocol, November 3, gives right to all Allies to take a certain weight of dyestuffs, but only if these dyestuffs are specifically chosen. The only way United States can actually secure possession 1,200 tons still due, or have it reserved, is to place definite orders for definite dyestuffs and pay for same.

4. France and Italy because of their need for dyestuffs executing [*executed?*] last fall their allocation under 5,200 ton agreement and since early January have been pressing for distribution balance impounded stocks.

5. Allies would object indefinite postponement United States picking 1,200 tons because this impounds indefinitely, tonnage due them from division balance stocks dyestuffs, A, B or C. You insist we have reserved 1,200 tons of alphabet, definite letters to be picked later, which demand would leave whole indemnity for their amounts A, B, or C, and prevent them securing dyestuffs from division balance stocks which they need as explained paragraph 4.

6. A demand that balance of United States allotment be held intact until United States is ready to take same, would, in my judgment, meet with refusal and balance in pool would be immediately allocated to others, therefore we are making request, through Service Restitution in kind, for extension date placing orders under 5,200 ton agreement from March 31 to April 15. This request is to be made in such manner that the position you take in your cable will not be more difficult to defend than at present. If, when

Perret arrives, he desires to make demand you mention, he can take responsibility of doing so.

7. In our judgment, you should arrange immediately for underwriting these orders. Patterson has offered, in interests American consumers, underwrite dyestuffs to extent \$100,000 representing current rate exchange, approving your 400 tons, price to be fixed and all profit to go to public objects selected by Secretary of State. This original offer has gone forward by Embassy pouch. Department should immediately telephone Textile Alliance and all necessary parties arrange underwriting balance as suggested Chapin's cable to Textile Alliance March 30. At current rate exchange, total value 1,200 tons approximately \$300,000, estimated sale value United States \$5,000,000 although estimate difficult because considerable quantities dyestuffs would be denied entry United States by provisions Longworth bill, but dyes free to enter United States worth several million dollars can be selected and would meet *bona fide* needs consumers.

8. Harold and Chapin have prepared this cable. While relying on them, I believe from what they report, the facts stated are correct and course recommended is wise. Will cable whether postponement to April 15 asked for is granted. Rathbone.

WALLACE

611.626/163 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 7, 1920—1 p.m.

703. For Rathbone for Perret from War Trade Board.

Embassy's 851, March 29, 11 p.m.

In reply to paragraph 7 your cable, plans are under way for Textile Alliance to privately purchase 1200 tons dyes if necessity arises and on certain conditions. As it seems preferable to make these arrangements with some representative body rather than with an individual, Patterson's offer should be held in abeyance. Expect to cable you definite advice April 8. All of the above is confidential except to Patterson.

COLBY

611.626/174a

The Secretary of State to the Textile Alliance, Inc.

WASHINGTON, April 10, 1920.

GENTLEMEN: I beg to refer to conferences held recently between Mr. Van S. Merle-Smith of this Department and a representative of your Company with regard to the purchase of twelve hundred tons of German dyes available under option to the United States.

By agreement entered into in connection with the Peace Negotiations the German Government gave to the Allied and Associated Powers a right of option to dyes from impounded stocks as well as from subsequent production of German manufacturers. Inventories were furnished by the German authorities covering impounded stocks as of August 4, 1919. These inventories contained also the prices at which Germany desired to receive credit for these dyes on account of the claims of the Allied and Associated Powers. These prices were stated in German marks upon the understanding that credit would be given for the marks at the rate of exchange current on the date of delivery of the dyes by the shippers to the transportation company as evidenced by the bill of lading.

The total amount of dyes covered by the inventories was approximately 20,000 metric tons of which the Allied and Associated Powers were entitled to receive not to exceed 50%.

Thus far there has been but a partial allocation of these impounded dyes among the Allied and Associated Powers. The apportionment amounted in all to 5200 metric tons of which the United States was given the right to take at the prices above referred to an amount up to 1500 metric tons without restriction as to colors except that the amount taken of any one color was limited to 10.22% of the total stock of that particular color as covered by the inventories above referred to.

American consumers were informed of this 1500 tons of German dyes available from this source and were given an opportunity to order therefrom through the Textile Alliance, Inc. such colors and amounts as were permitted to be imported under governmental regulations. Only 300 tons were so ordered. There remain approximately 1200 tons still available to the United States at the prices above referred to. Such dyes may be acquired at a price far below the present market value and therefore present an exceedingly valuable asset whether for internal use or for re-sale on foreign markets to which this country is entitled. We are informed that unless arrangements can be made allowing further time to the United States in which to exercise its option, an order with full specifications must be given to the proper authorities in Paris, not later than April 15, 1920, by the United States or its nominee. In default of such order these 1200 tons of dyes will revert to their source for re-apportionment among the Allied and Associated Powers, and will be for the most part lost to this country with detriment to American interests.

While recognizing the loss that would result if these dyes were allowed to revert, the Department cannot take upon itself the commercial function of purchase and sale.¹⁴ The Textile Alliance Inc.,

¹⁴ The remainder of this letter was cabled to the Ambassador in France, for Boyden and Perret, no. 723, Apr. 9, 4 p.m. (File no. 611.626/169.)

of New York, therefore, provided the necessity arises, is authorized to purchase in its private capacity in the interest of the people of the United States these 1200 tons of dyes, upon the following conditions:

1. The Textile Alliance Inc. will select such colors and may make trades with other nations during allocation of the colors, as in its judgment may seem desirable and are approved by representatives of the Department of State. The Alliance will fully cooperate with the proper officials of this Government in arranging the details of this transaction.

(a) The Textile Alliance Inc. will undertake to furnish to the proper authorities in Paris not later than April 15, 1920, or to the State Department not later than April 8, 1920, a formal order together with specifications for these dyes not exceeding in all 1200 tons, such order being conditional on the dyes being of standard quality and available at prices similar to those referred to in the first [second] paragraph of this letter, and with the additional provision that the Alliance shall not be required to pay for any of these dyes until delivery is accepted and receipted for by the Alliance or a transportation company acting as its agent.

(b) The Department of State will in due course advise the Textile Alliance Inc. to whom the purchase price of these dyes is payable and in what manner.

2. The following conditions shall apply to the importation and sale of these dyes by the Alliance:

(a) The Textile Alliance, Inc. will not import dyes into this country except in accordance with governmental regulations as to their entry into this country.

(b) In the sale of dyes which may be imported the Textile Alliance Inc. will not charge prices considered unreasonable by the Department of State. It shall conform with advices as to the policy of the War Trade Board or its successor, which shall be given for the purpose of protecting generally the interests of dye consumers and manufacturers; and it shall discriminate in no way by price or otherwise between consumers that wish to purchase such dyes.

(c) The Textile Alliance Inc. may sell the dyes abroad with the approval of the Department of State. The following considerations shall govern such approval by the Department of State: The retention for a reasonable period by the Textile Alliance Inc. of such dyes as may be necessary for import into the United States under governmental regulations; the prevention of "dumping",—dyes to be sold at reasonable market prices; the arrangement of sales so that as far as reasonably possible the marketing of these dyes will not compete with the sale of dyes exported from the United States.

3. It is recommended that until imported into this country for sale as provided above, the dyes shall be kept stored outside of this country.

4. The net profits accruing from the sale of these dyes by the Textile Alliance Inc. shall be paid into the Treasury on such conditions as shall be authorized by the Secretary of State and the Secretary of the Treasury, provided, however, that the Textile Alliance Inc. may retain as a reserve fund to meet accruing expenditures, such sums as may be agreed upon between the Alliance and the proper officials of the State and Treasury Departments.

I am [etc.]

For the Secretary of State:

FRANK L. POLK

Under Secretary

611.626/191: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, June 7, 1920—6 p.m.

1080. For Boyden for Perret from War Trade Board.

Embassy's 1185, May 11, 10 P.M.¹⁵

Section 1. Sub-Section A. Department and Alliance have reached satisfactory agreement regarding purchase by Alliance of 1200 tons of Reparation dyes. Terms of agreement are same as cabled in Department's 723, April 9,¹⁶ excepting that Section four relating to contemplated use of net profits has been amended. Reparation Commission and Cartel should be notified that a firm order has been placed for all types enumerated in Department's 728, April 10, 4 p.m.¹⁵; that these are for Alliance and that they should be delivered to Alliance in accordance with instructions given by Alliance through Chapin or Patterson as title to these dyes has thus passed to Alliance. It is their privilege to negotiate after approval by you for exchange of any of these dyes which may not be allowed entry into this country for other types which would be of value to our consumers. Alliance is working with War Trade Board Section to secure ample importations of needed dyes. War Trade Board will issue licenses to Alliance authorizing importations in bond of all usable types for domestic supply. They will not be released from bond and permitted circulation in this country until regularly authorized by War Trade Board. The type in your group three will be at entire disposition of Alliance under supervision of De-

¹⁵ Not printed.

¹⁶ See footnote to letter of Apr. 10 to the Textile Alliance, Inc., *supra*.

partment for export sale or for barter but will not, in general, be brought into this country even in bond.

Sub-section B: Remaining 5000 ton pool. We do not think that at this time any underwriting of these dyes can or should be contemplated. Orders could be taken for needed dyes by Alliance. Nothing can be done, however, until we get prices and production statistics of German factories. Exchanges with other allied countries would be valuable only after wants of consumers from available supplies ascertained.

Section 2: Production. Due to disinclination of Congress to take definitive action at this time regarding dye problem and resulting future uncertainty, additional steps beyond customary functioning of Textile Alliance not deemed advisable. We could participate to extent of Textile Alliance transmitting orders of consumers against daily production, as done in case of 300 ton Reparation lot.

Sections 3 and 4. Drug situation outlined in Department's 1079, June 7.¹⁷

COLBY

611.626/208 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, June 26, 1920—6 p.m.

1170. For Boyden for Perret. B-55.

Embassy's 1306, 1307 June 21st, 1312 and 1313 of June 22nd.¹⁸

Complete agreement mutually satisfactory consummated between Department of State and Textile Alliance covering 1200 tons whereby entire right of purchase assigned Textile Alliance as stated in our 1080 requesting Reparation Commission and Cartel notified accordingly. Supervision by Department provided for in agreement will be fully carried out here. Textile Alliance unrestricted in giving orders and instructions direct to Germans.

2. All dye selections are subject only to Department of State approval which has already been granted to Textile Alliance here for original and supplemental lists (Your 1306) of 1200 tons. Textile Alliance has been authorized to trade approved non-importables for anything they consider preferable. It is desire of Department to give Textile Alliance all necessary freedom and assistance consistent with Departmental obligations.

3. Fleisch now ascertaining whether Textile Alliance willing undertake pool and daily production dyes along same lines as 1200 tons

¹⁷ Not printed; see point 9 in Department's telegram, *infra*.

¹⁸ None printed.

provided authorization broad enough to permit their acting freely within limits agreed upon here in advance.

4. Textile Alliance 50 per cent profits you mention merely revolving fund, and will be utilized on additional projects. Profits however are not available until liabilities terminate, that is, sometime after sale and delivery completed consequently desirable underwrite each project.

5. War Trade Board will inform Textile Alliance here what import licenses will be granted for dyes they may bring forward from time to time. Matter of shipping importable type arranged here. Constant changes importable list make it impossible keep you currently informed. Division between importable and non-importable lists will be decided here currently.

6. We understand decision of Reparation Commission as to rate of payment relates to payment to Commission. Commission not financially concerned in United States allocation beyond receiving dollars equivalent to list cost in marks at average exchange during week preceding shipment. Therefore Department of State and Textile Alliance unaffected by exchange fluctuations after shipment. Textile Alliance obligation is in dollars. Preferable defer question of anticipating Reparation Commission request for payments. Department sees little possibility of any profits being returned to Reparation Commission.

7. Textile Alliance has full authority to sell indigo and contemplates sale direct to ultimate consumer involving no intermediary and compromising no one.

8. Information desired regarding five year production requested our 1139 June 18.¹⁹

9. Lack of demand for German drugs and certain opposition to importation and because of non-existence of central association of drug trade compel decision to abandon plan of drug allocation.²⁰

10. Department has made all necessary arrangements regarding payment War Trade Board expenses for fiscal year 1921. Matter is settled.

DAVIS

¹⁹ Not printed.

²⁰ On August 26 the Secretary of State instructed Boyden by telegram no. B-91 as follows: "Department's policy as follows: (1) It will not exercise option on impounded synthetic organic chemicals and considers no apparent demand exists at present for maintaining rights in quinine or cinchona bark. (2) It should retain right to participate in allotments from future daily production. (3) It will not exercise option on daily production January-June inclusive, 1920." (File no. 611.626/238.)

611.626/221 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, July 12, 1920—4 p.m.

[Received July 12—2:20 p.m.]

1385. B-155. For Davis.

Conversations regarding reparations here have brought to notice of certain people who have not previously followed carefully details of Reparation Committee decisions fact that United States is receiving share in dyes and some surprise has been expressed on this point. This information comes to me confidentially and I do not get impression that any effort will be made to change this policy but I regard it as important because practically sure to lead to request to us to make payment to Reparation Commission for dyes received. All possibilities for cash are being canvassed and this possibility is sure to be present in minds of people concerned. I have previously suggested that we ought to offer to pay over to Reparation Commission cash price of dyes as soon as money is received by us. I think it would be great mistake if instead of making this voluntary offer we waited until demand was made upon us. I therefore request specific authority to make offer. Boyden.

WALLACE

611.626/221 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, July 13, 1920—5 p.m.

1242. For Boyden from Department of State. B-68.

Embassy's 1385, July 12, 4 p.m.

Department hereby authorizes you to offer to pay Reparation Commission cash price of all Reparation dyes as soon as money is received by us and upon presentation by Reparation Commission of itemized bills. Conditions of sale here are such that we will not receive payment for Reparation dyes until dyes have been delivered here to individual consumers.

DAVIS

611.626/231a

The Secretary of State to the Textile Alliance, Inc.

WASHINGTON, July 30, 1920.

GENTLEMEN: By agreements entered into in connection with the Peace negotiations, the German Government has given the Allied and Associated Powers options upon certain dyes of German manufac-

ture, which options the United States Government has not yet exercised upon the following:

(a) Dyes herein referred to as Option "A", being the final apportionment of impounded stocks covered by inventories of the German manufacturers as of August 30th, September 5th, 19th, and 27th, 1919. This option will expire August 10, 1920 if the United States does not by that date notify the Reparation Commission of its intention to exercise the option and specify the kinds and amounts of dyes wanted and furnish shipping directions to the German factories not later than September 1, 1920. You are in possession of the inventories referred to, containing prices, also lists showing the amount of each dye to be apportioned and this country's share. These inventories and lists will be identified for the purpose of any undertaking that may be entered into.

(b) Dyes herein referred to as Option "B", being the present existing stocks manufactured between the dates of February 1, 1920 and June 30, 1920, both inclusive. Lists with prices are furnished by the Germans of dyes manufactured monthly. The option upon such dyes expires ninety days after each list is furnished to and approved by the Reparation Commission. None is yet approved. You are in possession of certain of these lists and others are to be furnished you in due course, all of which will be identified for the purpose of any undertaking that may be entered into.

An agreement of similar nature is in contemplation whereby the United States shall have an option upon specified portions of the following:

(c) Dyes herein referred to as Option "C", being the amount that may be produced by German manufacturers during the period of about five years, beginning with July 1, 1920, which amount it is said may be substantially the entire dye production of the German manufacturers in excess of the quantity required for current domestic consumption in Germany. It appears that in order to participate in Option "C" the United States must shortly express its intention of doing so without, however, committing itself to order, take or pay for any dyes whatever but nevertheless preserving its right to such kinds and amounts within the limits of the option as it may from time to time desire after the dyes have been produced and definite prices established, which shall not exceed the lowest prices at which the Germans currently sell the same dyes to any purchaser, German or other. There are known to be available under Options "A" and "B" appreciable amounts of colors now needed by American consumers and other colors which are quite certain to be badly needed a little later. It is reasonably certain that if Option "C" is not availed of consumers in this country will be at a serious disadvantage with foreign competitors. The Department of State, therefore, deems it essential that this option be exercised and that a suitable concern be found or formed to undertake the matter. Through previous similar undertakings the Textile Alliance has become experienced in these matters and its services have been satisfactory to this Department.

In view of all the foregoing circumstances the Department of State desires and requests and hereby authorizes the Textile Alliance to undertake upon the following terms and conditions, under Option "A" and Option "B" and also, if later found to be necessary, under Option "C", the purchase of such available dyes as may be necessary for American consumption, or, in discretion of the Textile Alliance for foreign resale as hereinafter provided:

1. It is understood the obligations to purchase on the part of the Textile Alliance pertain only to dyes of standard or pre-war quality. The State Department will render such assistance as may be proper to obtain redress in cases of dyes delivered being of inferior quality.

2. The prices to be paid by the Textile Alliance for all dyes that it may order under Options "A" and "B" shall be the prices in marks that are quoted in the lists referred to, but payment shall be in dollars at the average rate of exchange established by the Federal Reserve Bank in New York for the week prior to the date of the bill of lading from point of origin.

3. No dyes shall be ordered for domestic consumption unless requested of the Textile Alliance, Inc., by consumers or selected by the Textile Alliance and approved by the Department of State.

It shall be within the discretion of the Textile Alliance to order under Options "A" and "B" whatever dyes it may deem advisable for sale or exchange abroad, which sale or exchange shall be such as the Textile Alliance may deem to be satisfactory and without prejudice to the interests of American consumers and producers of dyes, it being understood that the Textile Alliance shall use its utmost endeavor to secure for American consumers the maximum amount of dyes wanted that are not produced in this country.

It shall be within the province of the Textile Alliance, Inc., to negotiate for the sale of stocks of dyes included in Options "A" and "B" held through purchase or exchange by the Textile Alliance other than those dyes listed as importable by the Department of State, and to sell the same for consumption abroad to any firm, corporation, or individual in any country in the world, including the United States, its possessions, and protectorates, providing the price charged by the Textile Alliance, Inc., will in its judgment, be fair and reasonable and not so low that such sale or sales might be considered as "dumping" of the dyes, or that when goods are dyed therewith, the sale price of the dyes would allow foreign manufacturers of finished products to compete with American goods at a price impossible for American manufacturers to meet, or that so far as is reasonably possible the marketing of these dyes will not compete disadvantageously with the sale of dyes exported from the United States.

4. There shall be no obligation upon the Textile Alliance to receive or pay for any dye whatever excepting such kind and amount as it may order, and no obligation, excepting in the case of Option "A", to order any dye until it shall have been manufactured, the price, rate of exchange and terms definitely fixed, and a firm order received from consumer with suitable provision for payment. Both the Department of State and the Textile Alliance, Inc., each reserve the right to abrogate at any time this agreement with respect to Option "C" dyes, without prejudice to anything to which the Textile Alliance or the Department of State shall at that time be committed.

5. No dyes shall be imported into the United States for domestic consumption without the approval of the Department of State or its nominee.

6. There shall be no discrimination in the sale of imported dyes in favor of or against any consumer in the United States and the prices at which dyes are offered or sold for consumption in the United States shall be subject to the approval of the Department of State or its nominee.

7. Upon the conclusion of the operations under this agreement by the Textile Alliance, the surplus moneys, if any, after the payment of all other expenses, shall be disposed of in the following manner to meet the conditions of underwriting which the Textile Alliance feels obliged to secure for its protection in connection with these operations:

One half to be paid into the United States Treasury. One half to be retained by the Textile Alliance as a revolving fund so long as need may appear for funds to carry on other work upon request of the Department of State and when such need shall have passed, the Textile Alliance shall devote one half of the said revolving fund to educational and scientific institutions conducted for public benefit and not for profit; the remainder to be paid into the United States Treasury. Monies paid into the Treasury shall be disposed of as Congress may direct. The Secretary of State, however, will make recommendation to Congress that said monies paid into the Treasury be appropriated for educational and scientific purposes.

If any liabilities appear to exist upon the conclusion of operations the Department of State will allow sufficient funds to be retained by the Textile Alliance, Inc., to cover such liabilities.

It is contemplated settlements shall be made upon the conclusion of each operation if practicable.

8. Upon the acceptance of these undertakings by the Textile Alliance, the Department of State shall instruct the Embassy at Paris to notify the Reparation Commission, the German Government, and the German manufacturers that the Department of State has empowered the Textile Alliance, Inc., to order and receive any or all of the

dyes in question within the limits of the options; on the understanding that the dyes so ordered shall be of standard quality, and that all directions pertaining thereto will be given by the Textile Alliance direct to the German manufacturers or to the Reparation Commission through the proper American representatives.

9. The Department of State shall in due course advise the Textile Alliance to whom and in what manner the cost of the dyes shall be paid. The Textile Alliance shall not be obliged to pay for dyes until shipped and until the receipt of a bill therefor nor shall it in the event of a deferred bill be obliged to pay more than the agreed prices with such interest, if any, as the Textile Alliance may have received thereon subsequent to the date of shipment.

10. At intervals of three months or at such other times as the Department may designate the Textile Alliance shall render reports to the Department of State indicating the dyes that have been ordered showing how disposed of and at what prices. The Department of State shall have a right to audit the accounts covering transactions under this agreement if desired. Should the transactions of the Textile Alliance as evidenced by these reports or audits be unsatisfactory to the Department of State it shall have the right to require such changes as it may desire with respect to future transactions.

11. The Department of State will extend whatever assistance it may consistently offer in overcoming any obstacles the Textile Alliance may encounter in marketing dyes ordered under Option "A".

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

611.626/233a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, July 30, 1920—7 p.m.

1315. For Boyden from Department: B-76.

Department and Textile Alliance have reached agreement regarding pool, also daily production February 1 to June 30, also future production Reparation dyes on lines similar to former contracts. You are hereby directed to immediately notify Reparation Commission, also German Government, also German manufacturers, also Chapin, textually as follows:

"Department of State has empowered the Textile Alliance Incorporated of New York to order and receive any or all of the dyes the United States may be entitled to receive from the remaining im-

pounded stocks, also from daily production February 1 to June 30 inclusive. The orders are provisional upon the dyes being of standard quality. The Textile Alliance will place its orders not later than August 10th for impounded dyes and shortly thereafter for the daily production February 1 to June 30, direct with the German manufacturers if no objections are raised thereto by the Reparation Commission. Orders will be accompanied by complete specifications also full directions which should be complied with".

Please cable when done.

Will cable further regarding future production when you advise particulars of arrangement consummated between Germans and Allies. Agreement will be forwarded to you by pouch for your information.

COLBY

462.00 R 29/282a

The Secretary of State to Dr. Areli H. Jacoby

WASHINGTON, November 8, 1920.

DEAR SIR: You are hereby appointed as Technical Adviser to the Unofficial American Delegation to the Reparation Commission at Paris, to represent the interests of the United States Government respecting that portion of Reparation dyestuffs allotted to the United States of America and which are covered by the lists and inventories of the German manufacturers submitted to the Reparation Commission as of August 30th, September 5th, 19th, and 27th, 1919, and those dyestuffs manufactured by the German producers subsequent to February 1, 1920.

Your salary has been fixed at \$1,000 per month and actual and necessary transportation expenses in going to and returning from your post of duty abroad, including transportation of your family and effects, and \$30.00 per day while at your post of duty in lieu of all other per diem, travelling expenses and expenses on account of subsistence. The aforesaid salary, travelling, and subsistence and per diem expenses shall be paid from those surplus monies which have accrued or which may accrue to the United States Government from the resale of that portion of Reparation dyestuffs allotted to the United States of America as set forth in agreements which are the subject of the Department's letters of April 10th and July 30, 1920, to the Textile Alliance, Inc. Any payment made hereunder by the Textile Alliance, Inc., shall be credited to it as against its obligations to the United States Government under the aforesaid agreements.

You will receive your instructions from and be responsible to the Secretary of State.

I am [etc.]

BAINBRIDGE COLBY

611.626/293a : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, December 29, 1920—6 p.m.

1735. For Boyden for Perret. B-178.

Your letter November 25 to Merle-Smith in regard to suggested dye-stuffs agreement.²¹ Department's policy has been merely to keep open opportunity to obtain needed German dyes on price equality with Allies. Department cannot go beyond this defensive position unless real necessity appears. Textile industries now practically at standstill and there is no demand for dyestuffs. Conditions may change but textile interests not willing to prophesy future or commit themselves. At this time Department does not favor separate agreement with the Germans. Unless necessary, Department does not desire further commitments on account of uncertainty of future dye situation from economic and legislative point of view and uncertainty of continued representation in Paris on Reparation Commission.

DAVIS

STATUS OF GERMAN SHIPS TAKEN OVER DURING THE WAR BY THE UNITED STATES AND LATIN AMERICAN COUNTRIES

Disposition of the United States to Support the Claims of Brazil, Cuba, and Uruguay to German Ships If Made under the Wilson-Lloyd George Agreement of May 1919—Claim of the United States to Title to German Ships Taken in Its Own Harbors—Purchase from Peru of a Former German Ship by the United States Shipping Board

862.85/866 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, December 23, 1919—4 p.m.

9418. For Wallace and Rathbone.²² Refer to Mission's 3794, August 20, 10 p.m. and 3537 August 6 10 p.m., and Department's 2917 August 15 1 p.m., and 3092 September 10 7 p.m., both to Mission.²³

Brazil has requested the aid of this Government in light of possible difficulties with the French in regard to the disposition of the

²¹ Not printed.

²² Albert Rathbone, Assistant Secretary, U. S. Treasury, in Europe to handle matters relating to reparations; unofficial representative on the Organization Committee, Reparation Commission, after Jan. 10, 1920, the Reparation Commission.

²³ None printed.

German ships taken over by Brazil in her ports during the war. Negotiations have been in progress to sell the ships to France. An offer for the ships has recently been received by Brazil from an American company. The French have been so notified and asked whether they wished still to buy. Brazil fears that the French not able to buy will place difficulties in the way of Brazil giving good title to the ships to any other buyer.

In this connection please note Wilson-Lloyd George Agreement.²³ Our understanding is that Great Britain, Italy and Japan having adhered to the agreement are bound thereby. France has agreed thereto as far as regards U.S. rights but not as regards the rights of Brazil. In addition Brazil states that she has chosen to settle compensation for the ships taken over directly with Germany and not by payment of compensation to the Reparations Commission. If Brazil by appropriate proceedings has not taken title as well as possession, the ships may come under operation of the Treaty, Annex III, Reparations, and be subject to proportional distribution for replacement of shipping losses by the Reparation Commission, if the action of the Commission is not limited by the provisions of the Lloyd George Agreement. If Brazil has not taken title it would seem that Brazil's ability to pass an unimpeachable title depends on the adherence of both France and Brazil to the Wilson-Lloyd George Agreement. This must include agreement by Brazil to pay compensation for the ships to the Reparation Commission less the sum which would be due her by way of the proportional amount of compensation for her shipping losses. In any event the United States can at present support Brazil only in so far as such support is consistent with the Lloyd George Agreement signed by the President. If Brazil desires to press these claims under said agreement, accepting the reciprocal obligation thereunder, please give your support with a view to obtaining French acquiescence in such claims if the opportunity presents itself.

POLK

862.85/983 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 5, 1920—11 p.m.

[Received January 6—2:14 p.m.]

40. From Rathbone for Davis.²⁴ R-195.

Department's 9478, December 31st, 1919.²⁵ Embassy's 21 January 3rd, 1920, R-191.²⁵

²³ *Post*, p. 512.

²⁴ Norman H. Davis, Assistant Secretary, U. S. Treasury, from Nov. 1919 to June 1920; assumed duties as Under Secretary of State, June 15, 1920.

²⁵ Not printed.

(1) Embassy's 21, January 3, 1920, my R-191, gives our views on questions of importance raised.

(2) Following from minutes O[rganization] C[ommittee,] R[eparation] C[ommission] meeting 2d October, delegates from the United States, England, France, Italy, Belgium present, Loucheur presiding:

"Brazilian ships. Chairman recalled that on several occasions this question had been raised before the Committee. In its meeting of 25th September 1919, it had charged Major Monfries to telegraph again to A[llied] M[aritime] T[ransport] E[xecutive] on this matter. In respect for decisions of the Commission, French Government had refrained from entering into negotiations with Brazil for purchase of these ships, but it stated that it considered it as formally understood that no other Allied or Associated Power should enter into or should authorize its subjects to enter into negotiations before decision was received. Committee declared itself in agreement."

(3) Under Wilson-Lloyd George Agreement it seems plain that irrespective of amount of claims against Germany by country (a) availing of that agreement and (b) receiving thereunder more tonnage than under the ton for ton theory, the reasonable value of such excess must be paid into common reparation fund notwithstanding the President's reservation in signing agreement. If Congress should refuse to make disposal of funds as contemplated, should doubt whether Britain would then be bound by agreement. On other hand French in accepting this agreement, so far as United States is concerned, did so subject to power of Congress to make disposal of funds under resolution approved May 12th, 1917. It is my view that Wilson-Lloyd George Agreement applied to all ships whether or not legal tender [*title*] has passed to Government capturing, seizing or detaining same.

(4) Annex III applies to German merchant ships, that is, ships the title to which was in Germany at date of treaty. If a country not accepting Wilson-Lloyd George Agreement has made [*taken*] title to ships before date of treaty in my opinion there is great force to contention that such ships do not pass under treaty and proceeds of sale so far as property of German nationals must be then dealt with in accordance with article 297 of treaty. This opinion is granted [*given*] without examination of international law bearing on question. . . .

(5) You will recall (a) that at meeting of second subcommittee on reparations March 31 Hipwood, British expert, said it was intention of draughtsman of annex III, paragraph 3, "to exclude from delivery to be demanded only boats captured and definitely condemned by prize courts". The amendments were rejected that

Robinson²⁵ proposed on behalf of United States involving recognition of [by?] Central Powers, of validity of seizure during war of merchant shipping and relinquishment of titles thereto, the Government holding such ships to be charged with reasonable value thereof; (b) that at meeting of Council of Four April 28 "it was agreed to inform Brazilians and Portuguese that it was not feasible to meet their claim in regard to shipping and that they would share in common pool."

(6) Would appreciate earliest possible information as to what position it is determined United States will take, without this information it will be difficult to discuss questions which will arise in connection with German ships seized by Brazil. Rathbone.

WALLACE

862.85/983 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, January 12, 1920—4 p.m.

85. For Rathbone from Department and Davis. Treasury R-154. Your 191²⁶ and 196 [195].²⁷ First: We are in substantial agreement with your views as to Brazilian memorandum.²⁶ While we are anxious to be of any possible assistance to Brazil, State Department has explained orally to Brazilian representatives that they should either (a) accept Wilson-Lloyd George agreement and make compensation for the ships in accordance with that agreement without set-off for other damages claimed by Brazil, in which case we can then press for French approval of that agreement which has never been given in respect to Brazil, or (b) take back the German ships which were chartered to France, if possible to do so in accordance with their charter agreement, and then operate them and obtain such possible advantages as might be inherent in possession.

Second: Apparently the decision of the O.C.R.C. of September 25th, 1919 referred to in paragraph 2 of your 195, precludes any Allied or Associated Power or its subjects from entering into negotiations for purchase of ships from Brazil before decision is received from Commission. Does this refer to decision of Reparation Commission? At any rate this decision, even if allowed to stand, would not preclude Brazil from demanding immediately from France, the return of these ships and we would support Brazil to this extent provided it is not in contravention of their charter agreement with France, which we are investigating and as to which we shall cable you further.

²⁵ Henry N. Robinson, technical adviser, American Commission to Negotiate Peace.

²⁶ Not printed.

²⁷ *Supra*.

Third: We agree with your interpretations outlined in paragraphs 3 and 4 of your 195, except that, as to paragraph 4, United States may in case Congress fails to ratify Wilson-Lloyd George agreement, desire to take position that part 10 of Treaty in no way applies to ships and that her title being acquired under International law, proceeds may be disposed of as she determines.

Fourth: If France refuses to ratify Wilson-Lloyd George Agreement in respect to Brazil's right to German ships taken by her, France probably will attack Brazil's title, but if Brazil accepts agreement France could not do more than force Brazil to cede to her the French proportionate share of her ships. . . .

LANSING

832.85/112

The Department of State to the Brazilian Embassy

MEMORANDUM

The Department of State desires to acknowledge the receipt of two memoranda from the Brazilian Embassy dated December 29, 1919,²⁸ one setting forth the claim of the Brazilian Government in effect that Brazil has the right under certain provisions of the treaty of peace with Germany to sell German tonnage taken over by the Brazilian Government in Brazilian ports and apply the proceeds to the payment of claims of Brazilian nationals for war damages, the surplus after making such payments to be delivered under Article 297(h) (2) for reparation purposes, and requesting that the United States support this position before the Supreme Council; and the other expressing the opinion that the claims of Brazil are consistent with the Wilson-Lloyd-George Agreement.

In view of the fact that the United States has not as yet ratified the treaty with Germany, it is not in a position to state definitely at this time its views as regards the construction of the treaty in respect to the question of the Brazilian Government. Should the United States become a party to the treaty and should Congress raise no objection to the Wilson-Lloyd-George Agreement, the United States would be committed by that Agreement to the course of action laid down therein. (A copy of the Wilson-Lloyd-George Agreement is enclosed herewith for the confidential information of the Brazilian Government.) The United States accordingly is very willing to offer such support to Brazil as it may be possible to give consistent with the provisions of this agreement. In this relation, however, it should be pointed out that in the view of the United States the

²⁸ Neither printed.

Wilson-Lloyd-George Agreement does not allow the application to the payment of war claims generally of the compensation to be made under the agreement to the Reparation Commission. It is understood, however, that the amount would be determined only after deducting certain costs and expenses such as those arising in connection with the taking over of the German ships. If, therefore, it should be deemed advisable by the Brazilian Government to adhere to the Wilson-Lloyd-George Agreement, the United States would be glad to support Brazil in such contentions in respect of German ships mentioned as seem to the United States to come within the scope of that agreement.

With reference to the statement of Brazilian Embassy that the Government of the United States has declared itself in agreement with Brazil's theses in a communication made for the President of Brazil in August last to Ambassador Morgan, it may be stated that Ambassador Morgan was informed, on August 26, last, that Mr. Polk at Paris had notified the Department of State that on information of the contents of a note which the Brazilian Government was about to present to the Government of France, the matter would be taken up by Mr. Polk informally with the French authorities, and his support lent to any satisfactory request which Brazil might formulate, with the qualification, however, that the freedom of action of the United States with reference to the disposition of these vessels was in a certain manner limited by the Wilson-Lloyd-George Agreement which provided among other things in substance that Brazil is authorized to obtain or dispose of these ships on condition that the value thereof is paid over to the Reparation Commission.

WASHINGTON, *January 12, 1920.*

[Enclosure]

Wilson-Lloyd George Agreement

The Allied and Associated Governments whose signatures are hereto affixed, severally agree as regards merchant shipping as follows:

1. The Reparation Commission will as soon as possible compile a list giving fullest particulars available on all enemy ships still in existence, captured, seized or detained by any Allied or Associated Government during the war, and also all other enemy ships or boats which the enemy Powers are required to cede under the Treaty of Peace.

2. The Reparation Commission will take such steps as will secure that each of the Allied and Associated Governments will retain as its own the complete title to and use of all ships captured, seized, or

detained during the war as a war measure and prior to November 11, 1918, and will own the same free from any claim of any of the other Allied and Associated Governments.

In all cases where the ships and boats so to be retained by any Allied or Associated Government are in excess of the claims of such Governments respectively for war losses in merchant ships such Governments shall not make any claim for a share in other ships and boats ceded under the Treaty of Peace.

3. In all cases where the ships and boats so to be retained by any such Governments are insufficient to satisfy in full the claims of such Governments respectively for war losses in merchant ships, the enemy ships which remain and which are to be ceded under the Treaty of Peace will be divided into three classes, viz. liners, other merchant ships, and fishing boats, and will be distributed to such Governments on the basis of ton-for-ton and class-for-class of the ships and boats lost and not replaced by the ships and boats retained, but in proportion to the balances due on the claims of such Governments respectively.

4. As the ships and boats so to be retained will, in the case of Brazil, China, Cuba, Siam, and the United States, exceed the total amount of tonnage which would be allocated to those countries were the total enemy tonnage captured, seized, detained or still in existence shared in proportion to losses of ships and boats during the war, in each such case a reasonable value on the excess of ships and boats over the amount which would result from such a division will be determined. The amount of the value so fixed will be paid over by each such state to the Reparation Commission for the credit of Germany towards the sums due from her for Reparation, in respect to war losses of merchant ships.

5. As soon as the Reparation Commission has collected the necessary information, and is in a position so to do, they will give public notice that after an interval of two months they will proceed to divide the vessels except those captured, seized, or detained by the Allied and Associated Governments which are to be retained by them respectively as hereinbefore provided. If within one month of the publication of the notice, any Allied, Associated or Neutral Government, person or corporation, a national of such Government and acting through such Government, notifies the Commission that they have an equitable claim against any vessel which has not been, or is not being satisfied by the enemy Governments, that claim will be considered on its merits by the Commission which may adopt any procedure it thinks fit, provided it is expeditious and is calculated to do substantial justice as between the Allied and Associated Governments on the one hand and the claimant on the other.

The Commission will have power to determine claims so presented, and such determination will be conclusive and the Commission will also have power to enforce its findings.

Dated May , 1919.²⁷

WOODROW WILSON *
D. LLOYD GEORGE

[Memorandum]

I deem it my duty to state, in signing this document, that, while I feel confident that the Congress of the United States will make the disposal of the funds mentioned in clause four which is there agreed upon, I have no authority to bind it to that action, but must depend upon its taking the same view of the matter that is taken by the joint signatories of this agreement.

832.85/113

The Acting Secretary of State to the Brazilian Chargé (Ipanema Moreira)

WASHINGTON, January 17, 1920.

MY DEAR MR. CHARGÉ D'AFFAIRES: I beg to acknowledge your letter of January 12, 1920,²⁸ enclosing a translation of the cable just received by you from your Government relative to the German ships seized in Brazilian ports.

I note that your Government desires certain and immediate information as to whether the United States would support the claims of Brazil in case the ships should be sold and France refuse to deliver them.

I draw your attention to the decision of the Organization Committee of the Reparation Commission of October 2, 1919,²⁹ which was concurred in by the representative of the United States, that none of the countries represented on the Commission should negotiate or support the negotiations of its nationals for the purchase of the Brazilian ships before the matter of the jurisdiction of these vessels came up for adjudication by the Reparation Commission. If it is so desired Mr. Rathbone will be asked to press for immediate consideration of the question.

²⁷ Other copies of this agreement found in the Department files likewise lack day of signature; a note from the British Embassy, Sept. 25, 1924 (file no. 763.72119/12143) speaks of this as the agreement of May 8, 1919.

* Subject to the explanation contained in the attached memorandum. [Foot-note appears in the original.]

²⁸ Not printed.

²⁹ See telegram no. 40, Jan. 5, from the Ambassador in France, paragraph (2), p. 508.

My Government, though unable to take a position in regard to the construction of the treaty with Germany while yet a non-ratifying Power, is inclined to believe that there is considerable force in the probable construction of the Allies that it was the intention of the framers of the treaty to deal with matters relative to the disposition of German shipping in Annex 3, Part 8 of the Treaty, except where otherwise specifically mentioned; and that Article 297 of the Treaty was intended to cover only the disposition of property on land. If this view is finally adopted by my Government, the unofficial representative of this Government on the Reparation Commission, if his opinion on this matter were to be asked by the other Allied representatives, would be unable to lend support to a construction of the treaty which would contemplate the establishment of title to German ships on the provisions of Article 297.

My Government, however, as stated in the Department's Memorandum of January 12, 1920, is ready to lend support to the claims of Brazil in accordance with the terms of the Wilson-Lloyd-George Agreement of May last. It is felt that if there exists any doubt in the mind of the Brazilian Government as to whether title was validly acquired under international law by the requisition of these ships, Brazil might well make her claims under the Wilson-Lloyd-George Agreement. If it should result that France could not be persuaded to recognize the agreement as relating to Brazil, France could not claim, except possibly on some right arising from the charter agreement, more than her proportional share of the ships.

If your Government is fully satisfied that by the act of requisition, title was effectively taken over by Brazil, claims to the vessels might be made by the Brazilian Government based on her right acquired under international law. Such claims, in the opinion of my Government, will, if substantiated, exclude the ships from the operation of Annex 3, Part 8 of the Treaty, and if on examination of the facts it should appear that Brazil has good foundation for the claim to title to the ships under international law, the United States would be willing to support the principle involved as it would be consistent with the interpretation of the treaty expressed confidentially above. In this connection also note Article 439 and Article 440 of the Treaty.

As to the support of the claim by Brazil for return of the chartered ships by the French, my Government can give no opinion without full information as to the terms of the charter agreement and other understandings with France under which the vessels in question are now held.

I am [etc.]

FRANK L. POLK

862.85/1000 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 17, 1920—5 p.m.

[Received January 18—4:23 a.m.]

165. R-221 for Department and Davis.

1st. Following from Belgian Minister of Railroads, Shipping Post[s] and Telegraphs to Belgian delegate Reparations, who asks information as to our knowledge of the matter.

"*Journal of Commerce* Antwerp announces America has put on sale 30 German liners seized during war adding that purchaser must be American and must employ vessels on routes to be designated by Shipping Board. Although this news seems to me at least premature if not untrue, please ascertain facts and advise. Signed Picard [*Pouillet*]."

Request instructions as to what reply should be made and information whether and, if so, what negotiations are contemplated along that line.

2d. According paragraph 2 Wilson-Lloyd-George Agreement final establishment of title and ownership ex-German vessels seized in our ports will be made by Reparation Commission. Also consummation this final establishment depends upon the adoption of agreement Allied Powers concerned and upon appropriation of funds by Congress to pay Reparation [Commission] for excess tonnage. If agreement fails in United States and treaty ratified, annex III reparations clauses applies and part of ships would have to be returned. Consequently my view: Negotiations for future sale should not contemplate delivery or change of title until United States position on treaty settled and matter ownership established here. Also to avoid suspicion of bad faith, which may prejudice acceptance Wilson-Lloyd-George Agreement, believe any plans for future sale should be kept confidential pending final settlement.

3d. Request your views and full information of any steps contemplated. Rathbone.

WALLACE

862.85/1000 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 2, 1920—3 p.m.

262. For Rathbone.

Your 165, January 17, 5 p.m., R-221. Your 1st. Please notify your colleague for Belgian Minister of Railroads that bids have been asked by the Shipping Board on German liners owned by the United

States but there is no agreement included to accept offers which may be made. For your Confidential information we hear that there is no immediate intention of selling these ships but offers were asked for the purpose of establishing therefrom a reasonable market price.

Your 2d. Also for your Confidential information this government, here and in Paris, has always maintained that good title was acquired by the seizure of the vessels. Further information as to legal basis of title and our views of general future policy to be followed will be sent you after views of all departments of the Government are coordinated.

Davis concurs.

LANSING

462.00 R29/48 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, February 25, 1920—4 p.m.

[Received February 26—4:13 p.m.]

566. R-361 for the Department and Davis.

1st. The Maritime Service sitting in London at its meeting 17th February 1920 adopted resolution to publish following notice with reference to beneficial ownership in enemy [vessels:]

"With reference to paragraph 20 of annex II of part VII [VIII] of the Treaty of Versailles which runs as follows: The Reparation Commission, in fixing or accepting obligation [*payment*] in specified properties or rights, shall have due regard for any legal or equitable interests of the Allied and Associated Powers or of any neutral powers or of their nationals therein: notice is hereby given that the Reparation Commission will proceed to divide the ex-German ships on and after the 1st May, 1920. All claims which it is desired to make in respect of any of these ships under the above quoted article must be notified through the government of the claimant to the secretary Maritime Service of the Reparation Commission, Bridgewater House, London SW 1 not later than the 1st April 1920. The Reparation Commission cannot undertake to consider any claims received after that date".

This notice is to be submitted to Reparation Commission for publication if adopted by Commission in accordance with general procedure of Commission in such respects. Cable at once if you have any suggestions regarding this notice.

2. There is no record here of any vessels other than tankers in which American nationals claim beneficial ownership. Request this be investigated and if any other claims exist we be notified promptly.

Do you desire us to arrange for giving notice of claims? It would probably be preferable that interested parties should prepare claims which when approved by Department could be sent us for filing in accordance with notice. Understand we are not to present any claim respecting tankers or other vessels unless and until otherwise instructed. Rathbone.

WALLACE

862.85/1000 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, February 25, 1920—7 p.m.

420. For Rathbone from Department and Davis: Treasury R-233.

First: We deem it advisable to indicate to you further our views respecting certain considerations which it seems important to have in mind in connection with question of disposition of German vessels taken in American harbors.

Second: The ships were not sent to a prize court for adjudication; hence title was not obtained by that method which is well recognized in international practice. But title was taken by the United States by the President's action under the resolution of May 12, 1917,²⁹ authorizing the President "to take over immediate possession and title" of enemy ships within the jurisdiction of the United States.

Third: Irrespective of the legal basis on which claim to ships may be grounded, whether it be requisition, involving compensation, or some other exercise of belligerent authority, it is essential the attitude be maintained our title is unquestionable. It should not be conceded that, as indicated in the second paragraph of your telegram R-221, January 17, final establishment of title is contingent on consummation of Wilson-Lloyd George Agreement.

Fourth: Title to the vessels having been obtained by virtue of action taken under resolution of May 12, 1917, paragraph 3, Annex III of Reparation clauses is not applicable to them, since then Germany had no title to them and was unable to dispose of them. While the Treaty contains no express waiver of rights to these vessels by Germany in behalf of herself and her nationals, yet it is believed Article 439 estops Germany or her nationals from putting forward any pecuniary claim in respect of these vessels. Such a waiver would doubtless have been desirable, irrespective of any independent claim to title we may make. It is doubtful whether we should attempt to rely on provisions in Economic Section of Treaty for con-

²⁹ *Foreign Relations*, 1917, supp. 2, vol. II, p. 1257.

firmation of action taken in seizure of vessels, since it is understood other nations will probably insist that such provisions do not relate to ships. It is not considered advisable at this time for this Government to take a definite position on question of application of Economic Section.

Fifth: In view of the position of this Government that title to vessels was acquired under the resolution of May 12, [1917,] whether by the exercise of the right of requisition or the belligerent right of confiscation, it may seem somewhat inconsistent for us to be a party to Wilson-Lloyd George Agreement. However, if Treaty is ratified, disposition of vessels will probably be made on understanding that paragraph 3 covers vessels taken by us, and that the Wilson-Lloyd George Agreement is merely an arrangement which recognizes our rights and which we voluntarily adhered to in interest of amicable understanding regarding shipping question. If we do not ratify Treaty, or in some way obtain the benefits thereof, it will evidently be necessary for us to assert title irrespective of it. In view of foregoing remarks it is desirable that discussion with representatives of other countries should be avoided as much as possible, and, as heretofore stated, that a positive attitude should be maintained as to our present title.

Sixth: We are not disposed to disagree with the substance of latter part your R-221 respecting sale vessels. The Shipping Board is acting independently in matters concerning sale of these vessels.

POLK

862.85/1057 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, February 28, 1920—6 p.m.

[Received February 29—5:35 p.m.]

590. R-373 for the Department and Davis. Your 420, February 25, 7 p.m., Treasury R-233.

First. Have had in mind possibility of claim by United States that title to German vessels seized in American harbors passed to United States other than through treaty or Wilson-Lloyd George Agreement and will avoid in future, as I have in past, taking any position inconsistent with such claim of independent title. Do not, however, understand you wish me to assert that claim, unless necessary to avoid contention that it has been waived. Paragraph 2d my R-221³⁰ was based on assumption that no such claim on part of

³⁰ *Ante*, p. 516.

United States would be put forward. Allied Governments may not anticipate such claim of title outside of treaty if agreement mentioned and fact of execution of that agreement lends color to such expectations. On other hand I understand that broad provisions of Wilson-Lloyd George Agreement regarding enemy ships captured, seized or detained would include ships as to which title was made under prize courts or otherwise. Would appreciate your views as to this.

Second paragraph. Note desirability of avoiding discussions with representatives of other countries regarding our position as to enemy vessels seized by United States.

Third paragraph. Am not clear as to which is the attitude indicated in your paragraph 5th that United States will probably take regarding these ships in case treaty is ratified.

Fourth paragraph. See no difficulty avoiding any position which would prejudice interpretation of article 439 of treaty in manner you indicate; we will also avoid taking position under article 297 in its application to ships. Presume this is what you desire in stating it inadvisable, at this time, for United States to take definite position in application of economic section. Have already expressed my views regarding application of article 297 to ships (see my R-191,³⁰ R-195³¹ and R-235³⁰) and understood by your R-154³² that you agreed with views expressed paragraph third of my R-191. In view of your R-233 would appreciate new instructions as to position I should take regarding Brazilian ships when that question comes before Reparation [Commission], unless Brazil changes her position it is inevitable that section 297 will be discussed in connection with Brazil's claim. Rathbone.

WALLACE

462.00 R 29/97a : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 2, 1920—8 p.m.

454. For Rathbone from Department and Davis. R-257. Your 566, February 25, 4 p.m. R-361.

First. The notice mentioned brings up important issue as by its terms it may include claims such as that of the United States to ships seized in its ports. We have decided the United States must consistently maintain the position outlined in our 420 Feb. 23 [25] R-233 in any contingency which may have relation to the title to

³⁰ Not printed.

³¹ *Ante*, p. 508.

³² *Ante*, p. 510.

those ships. We realize, however, a limitation on the scope of the notice would raise awkward situations in regard to claims of other nations to ships seized in their ports. We therefore approve publication of notice as given but desire you to make written notification to the Reparation Commission that any claims received which have to do with ships seized in American ports should be transmitted to this Government. Such notification may very probably raise the ultimate issue between this and the Allied Governments in reference to title to the ships, but we feel that it will be better to meet the issue now than later. It is assumed merely notice of claim is required before date set.

Second. Your paragraph 2. Claim has been informally brought to the attention of the State Department based on an agreement entered into before the war between American and German firms to charter certain German ships, charters beginning at termination of the war. If such claims are valid it would appear that they would constitute a legal interest which under paragraph 20 must be given due regard to by the Reparation Commission. The charter parties included some ships under construction and one ship near completion in a port formerly German but now Danish by operation of the treaty. Other similar claims may exist but none have up to this time been officially presented.

Third. Please notify us when notice officially agreed upon so that we may publish it at once as time for presentation of claims is short. It is possible extension of time limit may have to be requested. We will notify you later as to procedure which will be followed, and also with particular respect to tanker claim.

POLK

462.00 R 29/98 : Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 4, 1920—7 p.m.

[Received 8:17 p.m.]

635. R-393. For the Department and Davis. Department's 454, March 2, 8 p.m., your R-257.

1st. In accordance with your instructions I will give following written notice addressed to the Reparation Commission upon receipt of advices that you approve form.

"On behalf of United States Government I desire to give notice that it is its view that all claims of which notice is given to the Reparation Commission in respect of or relating to ex-enemy ships seized by the Government of the United States in American ports or elsewhere should be transmitted to the Government of the United States for its examination and determination."

2d. As this notice will probably give rise to discussion will state, if discussion seems to make it advisable, that United States claims, apart from treaty, title to ex-enemy ships seized by it and consequently any claims in respect of such ships must be passed upon and disposed of solely by United States Government.

3d. Claims made in respect to ships both under treaty and Wilson-Lloyd George Agreement can be made only by Allied and Associated or neutral Governments or nationals of such governments acting through their governments. Accordingly claims based on agreements entered into before the war between American and German firms cannot be made on behalf of German firms and can only be made on behalf of American firms by American Government. If United States is to take position that as they have title to seized ships they alone can adjudicate claims in respect of those ships, do not understand why United States should present claims of its nationals to Reparation Commission in respect of such ships.

4th. Notice set forth in my R-361²⁹ apparently drawn to conform to treaty and not to Wilson-Lloyd George Agreement. From your approval of form of notice I judge you do not think it necessary or advisable that notice should limit ships to be divided by Reparation Commission to ex-German ships other than those captured, seized or detained by Allied and Associated Governments. If you have contrary view and think proposed notice should be modified in this respect please cable at once modification you desire as matter is to be considered at meeting Reparation Commission March 8 if reached.

5th. In considering foregoing please bear in mind that I do not understand position that will probably be taken by United States in event of ratification of treaty. See Embassy's 590, my R-373.³⁰

6th. In any case dates in proposed notice will be altered. I will promptly notify you when text is finally adopted so that publication may be immediately made in America. Rathbone.

WALLACE

862.85/1057: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 8, 1920—3 p.m.

488. For Rathbone from Department and Davis. Treasury R-262. Your R-373, February 28.

First: We are in accord with views set forth in first paragraph your telegram.

²⁹ *Ante*, p. 517.

³⁰ *Ante*, p. 519.

Second: Answer to inquiry in third paragraph your telegram regarding our attitude if Treaty is ratified is briefly stated that shipping question will presumably be settled so far as we are concerned under terms of Wilson-Lloyd George Agreement if approved by Congress and that a position can be maintained in harmony with discreet attitude outlined in first paragraph your telegram. In these circumstances probably neither Germany nor German nationals would raise any question respecting our title, but would consider all German interest in ships is cut off by terms of Treaty. Such a disposition of question would therefore eliminate possibility of differences of opinion such as arose during sessions of Conference respecting validity our claim of independent title.

Third: Our telegram February 25 was sent to you for purpose of making certain you should understand our views regarding delicate character of questions which must be handled very discreetly in view of the language of the Treaty, the necessity of maintaining claim of independent title and the desirability of a satisfactory final adjustment of shipping question without controversy with Germany or with our cobelligerents. Your telegram under acknowledgment indicates that you appreciate necessity refraining from action which might preclude or hinder assertion of an independent title if at any time it should be advisable and that you have in mind situation in case of failure our Government to ratify Treaty.

Fourth: By slight amplification, language of paragraph 3, Annex III, might have embodied explicit waiver of German rights to vessels to which claim of independent title is made. Your R-195³¹ shows you apparently understand that British contention prevented such drafting of the paragraph which would have covered vessels seized by us. If our claim of independent title is not based on belligerent right of confiscation, it apparently must be based on right of requisition. This latter basis involves an embarrassing question as to compensation. Under Lloyd-George Agreement value of excess of ships is paid into reparation fund, but unless German rights in vessels have been cut off by paragraph 3, Annex III, German nationals would not be deprived by provisions of that Article, of any right of compensation they might have. Article 439, however, would apparently preclude such claims. It was attempted to convey the idea in fifth paragraph our telegram of February 25 that although paragraph 3, Annex III apparently could not apply to ships to which title passed prior to date of Treaty all questions such as those above indicated can probably be avoided if we ratify the Treaty and adopt the Lloyd-George Agreement.

³¹ *Ante*, p. 508.

Fifth: With regard to Brazilian ships referred to in fourth paragraph your telegram under acknowledgment, we believe you should be guided by general policy outlined in our telegrams of January 9 and 21.³² Your well reasoned argument in fourth paragraph your R-195 respecting effect of Article 297 could doubtless be pressed with considerable force, as warranted by explicit terms of that article. In view of that fact and in view of fact that general approval of Brazilian contention which you have pointed out may not be in harmony with your argument just mentioned, would evidently not adversely affect our position and might be favorable to it, it is suggested that you need not oppose their claim. The objection to interpretation that Article 297 in any way relates to ships of either class referred to in fourth paragraph your R-195 is that its correctness seems doubtful and that representatives of other nations will probably not agree to it. It is pertinent to bear in mind touching this point that ships in our ports were not taken over by the Alien Property Custodian under Enemy Trading Act. The claim of an independent title by us or the claim by Brazil of title by virtue of Article 297 does not prevent either from being a party to Wilson-Lloyd George Agreement as an amicable arrangement regarding shipping question. In such circumstances, it being assumed that the Treaty does not apply to ships seized in American ports, we are in the position of having confiscated them at the beginning of the war unless compensation is made. Brazil would in effect confiscate under Treaty provisions ships taken by it.

POLK

462.00R29/98 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 8, 1920—3 p.m.

490. For Rathbone from Department and Davis: R-263.

Your 635, March 4, 7 p.m., R-393.

(1) Approve notice in your 1st provided words in second line "it is its view that" are cut out.

(2) Approve your 2d.

(3) Your 3d. Claims based on agreement entered into before the war between American and German firms had relation to ships in German ports not in American ports nor seized by U.S., therefore, it is our view that such claims should be presented to the Reparation Commission.

³² Not printed.

(4) Your 4th. It was not thought advisable to limit notice to ex-German ships other than those captured, seized or detained by Allied and Associated Governments because (1) we wish to avoid the issue of Brazilian, Uruguayan and other similar ships; (2) it might be difficult to avoid answering the argument that as Reparation Commission by Lloyd-George Agreement is charged with securing the title to the ships detained by Allied and Associated Governments notice should be given to Reparation Commission of what ships had been so detained; (3) as it is impossible to tell what attitude the Senate will take in reference to the Lloyd-George Agreement, it would seem best not to specifically rely upon it.

(5) Your 5th. Until attitude of Senate becomes clear it will be impossible to state specifically the course which will be adopted by this government in reference to the ships seized by the United States. In general, however, it is felt that we must rely upon title acquired by seizure under Joint Resolution, treating the Lloyd-George Agreement as a compromise agreement precluding other governments concerned from questioning title, and as one entered into subject to approval of Congress to meet the wishes of the Allied Governments that this course be adopted rather than that treaty should contain provisions specifically conferring title in various allied and associated governments to vessels seized by them. It would not seem to lie in the mouth of those governments to allege technical inconsistency of the two claims when the situation resulted from their urgent recommendation with full knowledge on their part of our claim to title by seizure.

(6) Your 6th. We note dates notice will be altered.³³

POLK

862.85/1052

The Acting Secretary of State to the Cuban Minister (de Céspedes)

WASHINGTON, March 9, 1920.

MY DEAR MR. MINISTER: I have received your informal communication of February 25th,³⁴ enclosing an *aide-memoire* with regard to our recent conversation on the matter of the German ships which you state are now being re-delivered to your Government by the United States Shipping Board, requesting the Department's opin-

³³ The unofficial representative on the Reparation Commission reported, Apr. 9: "Dates May 15 and June 15 adopted as dates to be inserted in notice regarding claims and notice as previously outlined including those dates approved for publication." (File no. 462.00 R 29/158.)

³⁴ Not printed.

ion as to the present and future status of these ships. You inquire whether under the articles of the Armistice or the Treaty of Versailles and its Annexes, the vessels are to be considered purely and simply as having passed definitely into the power of the Cuban Government as Cuban property, or whether request can be justly made of the Cuban Government by Germany or by any of the Allied and Associated Powers, involving the turning over of the ships to Germany or to the Commission on Reparations. You also inquire if any such stipulation exists, by virtue of which the ships should be relinquished by the Cuban Government, when, where and to whom must they be delivered, or whether the Cuban Government can substitute for the physical consignment of the ships, a payment in money, and if so, how and by whom should their value be determined. You state that the Cuban Government is under the impression that no such return, transfer or payment of the ships has been agreed upon by them, and that the title to the ships as Cuban property is now perfected without any ulterior obligation on the part of the Government and that they can now dispose of the ships freely either by sale or charter.

In view of the fact that the United States has not as yet ratified the Treaty with Germany, this Government is unable to take a final position at this time in regard to its construction, and the Department cannot therefore undertake to answer definitely the questions presented by you. Nor is the Department in a position to determine whether final and complete title to the vessels in question was acquired through appropriate procedure by the Cuban Government prior to the signing of the Treaty. Your attention is called, however, to the following Treaty provisions which may have a bearing on the status of the vessels:

By paragraph 1, Annex III, Part VIII, (Reparation), of the Treaty:

"The German Government, on behalf of themselves and so as to bind all other persons interested, cede to the Allied and Associated Governments the property in all the German merchant ships which are of 1,600 tons gross and upwards; in one-half, reckoned in tonnage, of the ships which are between 1,000 tons and 1,600 tons gross; in one-quarter, reckoned in tonnage, of the steam trawlers; and in one-quarter, reckoned in tonnage, of the other fishing boats."

The ships and boats mentioned in paragraph 1, are, by paragraph 3 stated to include all ships and boats which

(a) fly, or may be entitled to fly, the German merchant flag; or (b) are owned by any German national, company or corporation or by any company or corporation belonging to a country other than an

Allied or Associated country and under the control or direction of German nationals; . . .”³⁴

By paragraph 2 of the Annex, the German Government agrees to deliver to the Reparations Commission within two months of the coming into force of the Treaty, all the ships and boats mentioned in paragraph 1. It appears from the foregoing that the vessels referred to in paragraph 3 of the Annex are ceded to the “Allied and Associated Governments” jointly, rather than to any particular government, and that they are to be delivered to the Reparations Commission.

In this connection the Department may call attention to the Wilson-Lloyd-George Agreement, a copy of which is enclosed herewith for the information of the Cuban Government.³⁵ This agreement provides that the Reparations Commission will take such steps as will secure that each of the Allied and Associated Governments will retain as its own the complete title to and use of all ships captured, seized or detained during the war as a war measure, and prior to November 11, 1918, and will own the same free from any claim of any of the other Allied and Associated Governments. This agreement further provides that as the ships and boats to be retained will, in the cases of Brazil, China, Cuba, Siam and the United States, exceed the total amount of tonnage which should be allocated to those countries, were the total enemy tonnage captured, seized, detained or still in existence, shared in proportion to losses of ships and boats during the war, in each such case a reasonable value on the excess of ships and boats over the amount which would result from such a division will be determined, and the amount of the value so fixed will be paid over by each such state to the Reparations Commission for the credit of Germany toward the sums due from her for reparation in respect to war losses of merchant ships.

The Department understands that the Italian Government on certain conditions has expressed its willingness to adhere to the Wilson-Lloyd-George Agreement. The French Government has agreed to be bound by the terms of the Agreement at least in so far as the vessels taken over by the United States are concerned.

It is possible that the Cuban Government may desire to consider the question of whether it should make its adherence to this agreement a matter of formal record, in order to participate in any advantages which may flow from it.

I am sorry that the Department is not in a position to answer your inquiry more specifically, but it is probable that the informa-

³⁴ Omission indicated in the original.

³⁵ *Ante*, p. 512.

tion given may enable your Government, with a full knowledge of the facts which surrounded the taking over of the German ships by Cuba, to reach a conclusion.

FRANK L. POLK

832.85/115 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 12, 1920—4 p.m.

517. For Wallace and Rathbone.

Two notes recently received from Brazilian Embassy setting forth claims of Brazilian Government that it has definitely acquired title to 30 ex-German vessels. While various arguments and conclusions of law are presented, the main argument apparently is that under the Decree of June 2, 1917, (issued before her entrance into the war,) Brazil acquired title to vessels as reprisal for sinking by Germany of one or two Brazilian vessels.³⁵

In reply, Brazilian Embassy informed that as question of title is one to be determined in accordance with applicable laws of Brazil, this Government is not in a position to express authoritative opinion on question, but that Brazil's representation of the grounds of her title is not wholly convincing to the Department. Department also referred to its previous assurance that United States is willing to offer such support to Brazil as may be consistent with provisions of Wilson-Lloyd-George Agreement, and suggested that in view of the possibility of Allied and Associated Governments considering that title to vessels was not acquired by Brazil, the Brazilian Government might further desire to consider the advisability of adhering to that Agreement in order to participate in any advantages which may flow from it.

Should Reparations Commission contemplate giving consideration, at this time, to the question of ex-German vessels taken over by Brazil, endeavor to obtain a postponement of the matter until the arrival of the Brazilian Government's delegation, which Department is informed will carry special instructions in the matter.

You may also, should opportunity arise, support in so far as proper and possible the request for the return of these vessels to Brazil upon expiration of Charter Agreement with France.

POLK

³⁵ See *Foreign Relations*, 1917, supp. I, pp. 293 ff.

832.85/117: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 20, 1920—4 p.m.

[Received 4:20 p.m.]

763. R-438 for the Department and Davis. Reference your 517 March 12, 4 p.m.

First. Maritime Service in London adopted March 4th, resolutions postponing consideration Brazilian ship question until arrival of Brazilian delegates.³⁶ Rathbone.

WALLACE

862.85/1109: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 16, 1920—4 p.m.

[Received (April 17?) 8:55 a.m.]

991. B-19 for the Department and Davis.

1st. European papers frequently report sales by the United States Government of German vessels seized during the war and late London paper reports sales during the week ending April 10 by Shipping Board including 11 ex-German vessels. For our information, request verification of what is being done in this connection, and where it calls for any change in our attitude with regard to claims on vessels under resolution in Congress.

2d. German Shipping Delegation repeatedly inquires concerning action to be taken by Allies regarding vessels between 1,000 and 1,600 tons detained during the war, which are subject to return to Germany, our information is that 9 ex-enemy vessels detained by United States are within these tonnages. Pending instructions if matter is brought to issue, we propose to maintain that resolution of Congress covers these 9 vessels; please advise.

3d. Reference our B-15 of April 13.³⁷ Lists on United States losses submitted to A[llied] M[aritime] T[ransport] E[xecutive] by representative Shipping Board in London were, we understand, prepared by Shipping Board Intelligence; can such lists be taken as authentic and responsible? Our unofficial representative in

³⁶ The Ambassador in Brazil reported, Dec. 1, 1920: "Negotiations between France and Brazil regarding German steamers seized in Brazilian ports are concluded on the basis of following principles. 1. The vessels now recognized as the permanent property of Brazil; 2. The arrangements will be based on article 297 of the Treaty of Versailles." (File no. 832.85/124.)

³⁷ Not printed.

London considers those lists practically complete but in discussion would like to have them vouched for by proper authority. Boyden.⁸⁷

WALLACE

862.85/1127: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 23, 1920—9 p.m.

[Received April 23—4:38 p.m.]

1046. B-39 for Department and Davis.

1st. Information received that French Government has agreed to full acceptance of Wilson-Lloyd George Agreement. This acceptance was embodied in recent Anglo-French shipping agreement signed in London April 22. Boyden.

WALLACE

862.85/1109: Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, April 24, 1920—5 p.m.

839. For Boyden from Department and Davis. B-17. Your B-19.

1: Shipping Board informs us that they have sold to date 43 ex-German vessels, none of which is below 1600 D.W.T. One, the *Carl Diederichsen* now named *Raritan* is of 1600 D.W.T.; 5 ex-Austrian vessels sold, all of which are over 2000 D.W.T. 30 ex-German vessels including 16 first class passenger type and 14 intermediate type for steerage and cargo are held under an injunction preventing sale. They further state 5 additional vessels available for sale, one at least is under 1600 D.W.T.

2: Your 2d. As we have stated before if definite position is demanded, it must be that title and possession of the ex-German ships seized in United States ports rest on act of seizure under joint resolution of Congress independently of the treaty.

3: In publishing notice concerning the reference to the Reparation Commission of claims against ex-German vessels, it has been pointed out that this notice does not apply to claims relating to ships seized in United States ports during the war.

4: We will request the Shipping Board to hold up for time being sale of vessels under 1600 gross tonnage.

⁸⁷ Roland W. Boyden, assumed duties, Apr. 1, 1920, as American unofficial representative on the Reparation Commission, succeeding Albert Rathbone.

5: Referring to figures of ship losses. There have probably been some changes since the Shipping Board intelligence lists were submitted to A[llied] M[aritime] T[ransport] E[xecutive]. Our figures at present show pre-war losses 67,835 tons, losses during the war, 347,082, total 414,917 tons. This, however, does not include 36 vessels mainly small schooners which were lost without trace. It is possible that it may be found later that the loss of certain of these vessels was due to German submarine activities. The tonnage figures also do not include merchant vessels damaged but not sunk. This damage is estimated to amount to \$3,658,045.38 made up of \$896,928.93, representing pre-war damage, \$2,761,116.45, representing damage after April 6, 1917.

COLBY

862.85/1143 : Telegram*The Ambassador in France (Wallace) to the Secretary of State*

PARIS, May 7, 1920—4 p.m.

[Received 10:30 p.m.]

1109. B-72 for Department and Davis.

1st. Following received from Greene with Maritime Service in London with reference to delivery ex-German ships between 1,000 and 1,600 tons.

"1. In determining list of ships between 1,000 and 1,600 tons, one half of which to be delivered by Germans, Maritime Service decided for purposes of determining total tonnage to temporarily include all detained vessels between those limits. I reserved and requested exclusion of similar vessels detained in the United States. This request was acceded [to], United States interest[s] amount to 5,756 tons.

2. Delay in coming to final decision regarding inclusion of detained vessels is due to British Government unable to state their views at present. British interests in detained vessels all tonnages amount to 374,000 tons, some of which have been condemned and some not. I believe British hesitancy to decide definitely is due to desire to first effect execution of Wilson-Lloyd George Agreement before committing themselves on their detained ships. I know British interpretation of Agreement is that United States shall pay for total tonnage but that present situation Congress points possibility of no payments and all ships to be retained United States under resolution of May 1917. Signed Green."

Boyden
WALLACE

862.85/1145 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 8, 1920—7 p.m.

[Received May 8—5:55 p.m.]

1118. B-73 for Davis.

1st. With reference to our B-72 of May 7. The features at issue there as well as questions of documents of title, claims against ships seized or detained, and the matter of distribution of ex-enemy tonnage generally, all point to the desirability of an early decision as to what we can or will do with the Wilson-Lloyd George Agreement. The entire matter of handling ex-German tonnage would be much clarified with acceptance of this agreement by all parties or if we can not accept because of the refusal of Congress to appropriate funds to cover excess tonnage or for any other reason and can take a definite stand as to our claim on the seized ships the business can then, at least, go forward with the French acceptance of agreement now settled. It is probable that Italy and the others will fall in line shortly. This will leave matter held up for some time awaiting our action. Suggest for your consideration advisability of putting this matter before Congress immediately with a view to consummation of agreement without regard to action on treaty. Since Wilson-Lloyd George Agreement is an international agreement apart from and outside of treaty there is no reason apparent why our acceptance should be dependent or wait for our ratification of the treaty.

Boyden
WALLACE

862.85/1146 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 12, 1920—3 p.m.

919. For Boyden from Davis. Treasury B-31.

Your B-73 and B-74.⁸⁸

First: While we fully realize the desirability on the part of the Allies to know if we are to adhere to the Wilson-Lloyd George Agreement and what our position will be in case this agreement does not become effective, it would in our opinion be impossible at present to get any Congressional action on the question. While this agreement may be considered as an international agreement separate from the Treaty, we are inclined to the opinion that in practice our adherence to this agreement cannot be separated from the Treaty, because our right to pay into the Reparation pool, instead of direct to the owners, the

⁸⁸ Latter not printed.

surplus value of the ex-German ships is derived or safeguarded through Germany's consent for us so to do under the Treaty. In other words, if we do not ratify the Treaty it would appear that if we pay for the ships at all, we must pay the ex-owners of the ships instead of the Reparation Commission.

Second: While we of course desire to dispose of the matter and realize the desire of the Allies to know what we are going to do, I fail to see just why our delay should interfere with the other ship settlements because in no event are the ships which we hold to go into any ship pool. If we ratify the Treaty and adhere to the agreement we deduct from the value of these ships, the value of the ships which would be theoretically allocated to us against our losses, but we would not get those ships. If we do not ratify the Treaty we cannot define now what our position would be but in such event our claims for ships lost might not be under the Treaty, but probably would be a direct claim against Germany, unless we negotiate some agreement to the contrary. There appears to be some inconsistency in the Wilson-Lloyd George Agreement as to the theory of distribution of losses in paragraphs 3 and 4. As heretofore indicated, our primary purpose in entering into the Wilson-Lloyd George Agreement was not to confirm us in our title and possession of those ships with which we were satisfied, but was with the view of meeting the difficulties existing at that time and principally of England, by agreeing to pay the surplus value of those ships into the Reparation pool instead of otherwise. In so far as concerns the material or theoretical allocation of German tonnage among the Allies, we fail to see how they are estopped from proceeding therewith by the delay in the determination of our final position in respect to payment for the German ships which we took over.

COLBY

862.85/1154: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 15, 1920—6 p.m.

[Received 7:42 p.m.]

1161. B-87 for Davis.

1st. Your 919, Treasury B-31. Recognize difficulty pointed out by you between paragraphs 3 and 4 Wilson-Lloyd George Agreement, therefore think you are right in believing ships can be allocated under paragraph 3 without waiting for our ratification of agreement which removes most important difficulty I had in mind in my B-73.⁸⁹ Some less concrete difficulties remain like one you suggest first sen-

⁸⁹ *Ante*, p. 532.

tence your paragraph one but provided other powers willing proceed themselves on lines Wilson-Lloyd George Agreement without knowing our position our delay not [an] obstruction and therefore not so embarrassing as I feared.

2d. Ratification Wilson-Lloyd George Agreement without ratification of treaty involved in my mind agreement on the part of Germany which I assumed Reparation Commission could easily obtain.

3d. In view of foregoing withdraw my insistence on immediate act of Congress provided you send prompt and favorable answer my tanker cables.³⁸ Boyden.

WALLACE

462.00 R 29/228: Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 29, 1920—5 p.m.

[Received May 30—11 p.m.]

1218. B-105. For Davis. Reference your 984, Treasury B-306 [B-36].³⁹

1st. Please consider following suggested form of statement to be presented to Commission when question of distribution of ships is directed by Commission.

"No objection is made by the United States to the conclusion of the Commission against taking into account pre-war shipping losses in connection with distribution of ships acquired from Germany by the Commission in view of the fact that the United States has not as yet ratified the Treaty of Versailles and that in any event it is hardly possible that the United States shall share in such distribution.

With reference to the possibility that the principle involved might otherwise be regarded as having some bearing on interpretation of the so called Wilson-Lloyd George Agreement, not yet ratified by the United States, or as affecting in some other way the position of the United States as to the German ships of which possession and title was, during the war, taken by the United States under authority of an act of Congress. I am instructed, by my Government, to state to the Commission that it now makes all reserves necessary so that the question may remain an open one for consideration by the proper United States authorities when, if ever, it becomes material.

In addition I am instructed by my Government to call to the attention of the Commission the fact that the principle that participation in reparation must be confined to losses during the period

³⁸ For correspondence concerning German tankers, see pp. 542 ff.

³⁹ Not printed.

of belligerency of each nation, tends to the result that nations which did not participate in the war may be unable to collect their legitimate claims against Germany and that nations which did not participate in the whole war may have outstanding legitimate pre-belligerency claims against Germany which cannot be collected. The difficulty in the collection in both cases arising from the fact that the reparation payment is classed as charge against the revenues and assets of the German nation, leaving nothing available for other claims. This result tends towards unfairness and ill feeling as between nations and has the further unfortunate result of leaving outstanding, against Germany, claims, which, so long as they remain unsettled, will constitute a disturbing factor in all trade relations between Germany and the outside world and will to that extent be a barrier to the economic rehabilitation of Germany and also of those countries whose prosperity depends to a greater or less extent upon business relations with Germany."

2d. The Reparation Commission, if they say anything, which is not probable, would reply that the difficulty is inherent to treaty and can be remedied only by the Governments themselves but see no harm in making the statement to Department [*Commission*].

Boyden
WALLACE

462.00 R 29/228 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, June 7, 1920—2 p.m.

1077. For Boyden from Department and Davis. B-47.

Your 1218, May 29, B-105. Approve your statement provided that last clause first paragraph statement reading "and that in any event it is hardly possible that the United States shall share in such distribution" be omitted. It is believed this clause not necessary, and advisable to leave it out.

COLBY

462.00 R 29/246a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

[Paraphrase]

WASHINGTON, June 16, 1920—7 p.m.

1124. For Boyden from Davis.

Ascertain status of Uruguayan claims filed with the Reparation Commission arising from ex-German ships which Uruguay seized, held and employed during the war and since. As we have advised,

latter's representative here urgently desirous that position of Uruguay should receive some support or countenance from American Government. It is difficult to refuse this request in view of Uruguay's employment of the vessels during war period in friendly cooperation with Allied aims, including particularly plans of United States and Great Britain. However, United States could hardly with propriety openly support claim and it seems that utmost we can do is to exhibit some interest as to situation of claims and rely upon this exhibition of interest to exert an influence which will be not unhelpful.

COLBY

862.85/1173a : Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

WASHINGTON, June 23, 1920—5 p.m.

94. Brazilian Ambassador has stated information received that Cuban Government has definitely taken over ex-German ships under Article 297 Versailles Treaty and such action with the support of United States Government. Department has adhered to position taken in note March 9th that Government could not at this time give support to Cuba on such basis. Department much concerned over report. Wire at once any information you have. For your information this Government cannot give assurances to American purchasers of support of Cuban title to ships if title taken over by Cuba on basis reported.

DAVIS

462.00 R 29/249 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, June 24, 1920—4 p.m.

[Received 6:39 p.m.]

1321. B-130 for Davis.

Reference your 1124, June 16, Uruguayan request for recognition of ownership ex-enemy ships received by Maritime Service. It was decided that this claim would not be taken up in detail until full discussion question of partition of ex-enemy ships. Our representative on Maritime Service arranging confer with Uruguayan representative in London and will note and give friendly consideration to any statements he may make with regard to the case for use when the occasion arises in accordance with your message. Boyden.

WALLACE

462.00 R 29/249 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

[Paraphrase]

WASHINGTON, July 1, 1920—11 a.m.

1189. B-57. For Boyden.

Your B-130, Embassy's 1321, June 24. In further conference Uruguayan Minister said French support of Uruguayan claims has been promised by Millerand. At Minister's request you are instructed to take a favorable attitude in regard to claim of Uruguay for ships if based on the Wilson-Lloyd George Agreement provided Uruguay agrees to pay reasonable value of the ships to Reparation Commission. It is believed that under reasonable construction of Agreement, Uruguay, though not a belligerent, may be included in its benefits as an Associated Power. Furthermore, if present value of ships is used as basis for reimbursement under Agreement, Uruguay should be allowed set-off for reasonable expenses incurred in reconditioning and maintaining vessels.⁴⁰ This position is consistent with the position taken toward claims of other South American nations to German ships, inasmuch as Brazil and Cuba were informed that Department would adopt a favorable attitude toward their claims if made under the Wilson-Lloyd George Agreement.

DAVIS

862.85/1174 : Telegram

The Acting Secretary of State to the Chargé in Cuba (White)

[Paraphrase]

WASHINGTON, July 9, 1920—4 p.m.

107. Brazilian Ambassador states his Government has been informed by the Cuban Legation in Rio de Janeiro that its statement that the United States would support the Cuban claim to ex-German ships, under article 297 of the Treaty of Versailles, was based upon statement of Cuban President. Ascertain just what the Cuban President authorized and what was said to the Brazilian Government.

It is important that any statement made by the Cuban Government inaccurately setting forth the United States position should be corrected to accord with this Government's note of March 9. In its

⁴⁰ The assistant unofficial representative on the Reparation Commission reported, Aug. 3, 1922: "The situation with regard to these vessels is, briefly, that they have been dropped from consideration by the Commission and not included in the lists of delivered vessels. Along with other groups of detained vessels, and without any definite decision in their case, they have been treated as never having come into the hands of the Reparation Commission." (File no. 862.85/1402.)

note the United States in no way indicated that it would support the Cuban claim to ex-German ships under article 297 of the Treaty of Versailles, but merely called attention to the Wilson-Lloyd George Agreement, with the observation that Cuba might desire to make its adherence to this agreement a matter of formal record, in order to participate in any advantages which might flow from it.

Inform Department if an attempt is made by Cuba to sell vessels instead of merely leasing them.

DAVIS

862.85/1188

The Chargé in Cuba (White) to the Secretary of State

No. 263

HABANA, July 13, 1920.

[Received July 19.]

SIR: In reply to the Department's cable instruction (No. 107) of July 9th, 4 P.M., in regard to the ex-German ships now in possession of the Cuban Government, I have the honor to inform you that I saw President Menocal this morning and he informed me that he had not authorized the Cuban Legation in Rio de Janeiro to make any statement in regard to the American Government's attitude towards these ships. He stated that although he had not yet seen a copy of the Department's letter to the Cuban Minister of March 9th, he was well aware of the views of the American Government regarding these ships. He stated, however, that the opinion of the Cuban Government was that they are entitled to these ships under the Versailles Treaty, and that the Cuban Government had declined to become a party to the clearing house for claims as Cuba had suffered practically no losses from Germany, and he could not see that Cuba would have anything to gain by adhering to the Wilson-Lloyd George agreement. The only Cuban ship lost in the war was the *Chaparra*, which was apparently sunk by a mine at the end of the war. The attitude of the Cuban Government in this case was that as the ship was not operating under the control, instructions, or direction of the Cuban Government, and was charging freight rates, etc. enough to compensate for war risks, it did not have any claim against the Cuban Government for losses, nor would the Cuban Government present its claim to the German Government nor to the Reparation Commission. If the Company wishes to present its claim to Germany or to the Reparation Commission direct it may do so, but the Cuban Government will take no action or interest in the matter.

Therefore, the President stated as the Cuban Government had not recognized and would not pay any claims of its own citizens, it did

not feel constrained to pool these ships which it had taken over during the war for the benefit of the claim of any other Government, and he considered that Cuba was right in this matter as the legal authorities of the Department of Justice consider that Cuba has the right to the ships under the Treaty, and that under the Treaty it is optional with Cuba whether or not she shall enter the pooling arrangement.

The Cuban Government, however, does not intend to sell the ships outright, but merely to charter them, as they consider it more advantageous to keep the ships working until their status shall be definitely decided, rather than let them lie idle in Habana harbor. However, Article XIV of the terms on which these ships will be leased provides that the Government may cancel the contract at any time that the interest of the Government may require it, and should the authority of the Cuban Government to lease these ships be questioned at any time, the Government would, therefore, be in a position to rescind the contract and make such disposition of the ships as might be determined. A copy of the terms on which the ships can be leased was transmitted to the Department in my despatch (No. 178) of the 8th ultimo.⁴²

The President promised to immediately telegraph the Cuban Legation at Rio de Janeiro, and find out just what statement was given by it to the Brazilian Government, and should it have misinformed the Brazilian Government of the attitude of the United States Government with regard to these ships, he has promised to have the erroneous statement corrected.

I have [etc.]

FRANCIS WHITE

862.85/1226 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, August 27, 1920—3 p.m.

1408. For Boyden. No. B-92.

Shipping Board desires to purchase *Callao*, one of German ships taken over by Peru during war and chartered to Shipping Board. Apparently Peru never actually took title to vessels although she gave option to Shipping Board to purchase. For your informal information Department understands that charter hire for *Callao* is very high and purchase price low, and that Shipping Board believes it would save money by purchasing vessel now even if Reparation Commission later refused to recognize its title to vessel.

Has any action been taken by Reparation Commission in regard to vessels seized by Peru? Department does not desire to take any

⁴² Not printed.

action which might conflict with decision of Reparation Commission on these vessels.

COLBY

862.85/1234 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, September 21, 1920—6 p.m.

[Received 7:12 p.m.]

1736. B-261. For the Department and Davis. Reference your B-111 our B-248.⁴³

1st. Following from Greene in London: "No new information available from Peruvian experts. Peru has no losses for which ton for ton reparation can be given. Therefore good Peruvian title to ship depends on proper government action in detaining the ship or putting into effect Wilson-Lloyd George Agreement with Peru a party to same. I personally believe Peru will eventually get the ship. This is also British opinion but is not based on fact."

2d. For your information. There are indications that British and probably others have given up hope of ever taking over German steamers seized by various South American powers. Believe they are resigned these countries holding what they have and eventually establishing ownership one way or another. They expect however compensation for excess over losses by some scheme following Wilson-Lloyd George Agreement. This view is not based upon any definite admission or statement but comes from casual conversations and observation of day to day developments.

3d. In any case position of South American countries with regard to ownership probably not definitely established until possibilities under Wilson-Lloyd George Agreement made clear following our action on that document. Meantime there has always been objection any assumption ownership or right of sale by any South American country until cases are finally decided.

4th. Foregoing gives you all facts at our disposal. . . . Boyden.

WALLACE

862.85/1224 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, October 1, 1920—7 p.m.

1528. Boyden B-133.

Your B-248,⁴⁴ Department's B-92,⁴⁵ and B-111.⁴⁴

For your information Shipping Board gives further information that *Callao* chartered at eight and a quarter dollars per ton before

⁴³ Not printed; see telegram of Aug. 27, *supra*.

⁴⁴ Not printed.

⁴⁵ *Intc*, p. 539.

the armistice to continue until peace with Germany. This rate very excessive and cannot be changed until peace between United States and Germany. In addition \$600,000 spent on reconditioning ship. Peru now offers to sell the ship at a price which would enable Shipping Board to recover money spent on repairs; and to permit a substantial offset as an allowance for excessive charter hire collected. In addition Peru offers to guarantee title and is now insisting on definite reply from Shipping Board. Shipping Board especially desires to purchase ship in order to cease payment of excessive charter hire. They argue that if Peru guarantees title as proposed it will not be necessary for United States to support Peru's claim to title.

Such a plan somewhat similar in effect to that suggested in paragraph 3 your B-248, but would effect immediate settlement of charter hire difficulties. Department does not desire to place itself in awkward position with the Commission but it is rather difficult under existing conditions to refuse Shipping Board's request. Please cable your views and if you think it advisable you might consult your associates, pointing out difficulties of the present situation.

COLBY

862.85/1253

The Secretary of State to the United States Shipping Board

WASHINGTON, October 22, 1920.

GENTLEMEN: Referring to previous correspondence concerning the S.S. *Callao*, the Department encloses for your information a copy of a telegram of October 13, from Mr. Boyden.⁴⁶

Your attention is called to the statement in the first paragraph of Mr. Boyden's telegram that it would help greatly if the proposed guarantee by Peru is "so worded as to indicate the definite intention on the part of United States not to interfere in case claims made by the Allies, something which could be quoted if question arises." This suggestion meets with the Department's approval and accords with the recent conversation with your Mr. Wood in which he was informed that the Department was of the opinion that under the Treaty of Versailles the final disposition of the *Callao* and the other ex-German vessels taken over by Peru was apparently a matter to be determined by the Reparation Commission, . . .

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

Second Assistant Secretary

⁴⁶ Not printed.

862.85/1253 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, October 30, 1920—6 p.m.

1596. Your 1804, October 13.

For Boyden. Your B-279.⁴⁶ Department's B-150.⁴⁶

1. For your information. By agreement of October 23 between Emergency Fleet Corporation and Peru contract for charter of ex-German Peruvian ships terminated, and *Callao* purchased by Corporation. Purchase price deposited in trust until Reparations Commission shall determine right, title and interest of Peru in *Callao*. If title is not sustained, sum with interest to be returned to Shipping Board. Peru agrees to use utmost efforts to secure relinquishment by Reparation Commission, or those whom it represents, of any claim to the title to vessel. Peru also transfers to Corporation all her right, title and interest to steamers *Pisco*, *Luzor* and *Salaverry*, now in use of French Government.

2. Peruvian Ambassador wishes your confidential opinion as to whether advisable for Peruvian Naval Attaché at Washington to proceed to Paris at this time for purpose of presenting claims of Peru to steamer *Callao*, and other ex-German ships, before Reparations Commission.⁴⁷

DAVIS

**TANK SHIPS OF THE DEUTSCH-AMERIKANISCHE PETROLEUM
GESELLSCHAFT**

Claim by the Standard Oil Company of New Jersey to Beneficial Ownership—Provisional Exemption of the Tankers from Allocation among the Associated Powers; Cancellation of the Exemption by the Supreme Council—Refusal by the United States Shipping Board to Release the "Imperator" and Seven Other German Ships Pending a Decision on the Tankers; Release of the Eight German Ships—Proposals for a Provisional Allocation of the Tankers—Agreement of June 7, 1920, between the Reparation Commission and the United States

362.115 St 21/55 : Telegram

The Secretary of State to the Ambassador in France (Sharp)

WASHINGTON, August 13, 1919—5 p.m.

9028. Department is informed by Standard Oil Company of New Jersey that nine tank steamers now lying in German ports which

⁴⁶ Not printed.

⁴⁷ According to a telegram of July 15, 1921, from Boyden (file no. 862.85/1348), the Reparation Commission decided on July 12, 1921, that these ships taken over by Peru were not on January 10, 1920, German ships and that therefore they were not ceded to the Allied and Associated Powers under annex III, part VIII, Treaty of Versailles.

are registered in the name of the Deutsch-Amerikanische Petroleum Gesellschaft, a German subsidiary of the Standard Oil Company, will be immediately used by the Standard Oil Company in transporting oil from United States to Germany. To this there appears to be no valid objection, but in order that you may be prepared to meet any questions which may be raised the following situation with regard to tankers is given you.

Total capitalization of German subsidiary company is 60,000,000 marks consisting of 9,000,000 marks of shares, 21,000,000 marks of share warrants and 30,000,000 marks of debentures practically all owned by Standard Oil. In February 1917 Standard sold shares which carry voting power and control to certain German subjects who had been identified with German company's management, lest ships and other property of company might if war ensued be seized and sold by Germany as American owned and controlled property. Purchaser pledged for payment American securities then in United States of far less value. United States Alien Property Custodian seized pledged securities holding sale was invalid, that no debt existed and shares still belong to American company which it is stated in any event continued to own 85 per cent interest. Ships and other property in German jurisdiction were not appropriated by Germany.

The tankers in question have not been allocated to any of the Allied or Associated Powers, being expressly exempted by the Brussels Agreement of March 14, 1919.⁴⁸ The Peace Treaty has been ratified by Germany and the blockade raised and trade relations between United States and Germany resumed. It therefore seems unobjectionable that these tankers though under German flag should go to sea with their own crews and engage in commerce.

Under Treaty of Peace Germany is to deliver certain categories of ships to Reparation Commission. Reserving any other questions the delivery is in no event required to be made until two months after Treaty comes into force and this delivery is not delivery of hulls assembled in one place but is delivery of documents of title. The American interest in the German company has heretofore been diplomatically protected by this Government and was expressly recognized by Great Britain and France in 1914 and 1915 in acquiescing in transfer of a number of tankers registered in the name of the German company to the Standard Company and the American flag.⁴⁹ The principle of equitable ownership thus applied greatly enured to advantage of Allied Powers in preserving supremacy at sea in preventing formation in neutral countries of companies with German capital to send ships to sea in German interests under neutral flags. Same principle is recognized in Peace Treaty in

⁴⁸ Not printed.

⁴⁹ See *Foreign Relations*, 1914, supp., pp. 485 ff, and 1915, supp., pp. 674 ff.

reparation clauses Annex II paragraph 20 which provides that Reparations Commission shall have due regard for any legal or equitable interests of nationals of Allied or Associated or neutral Powers in connection with shipping.

Where "property, rights and interests" of nationals of Allied or Associated Powers have been subjected to exceptional war measures and measures of transfer in Germany Article 297(A) of Treaty provides that when liquidation has not been completed such measures shall be immediately dropped and property, rights and interests restored to their owners who shall enjoy full rights therein in accordance with Article 298 which stipulates for enjoyment in same measure as before the war. Evidently where property, rights and interests have not been subjected to such measures the Treaty does not take from the owners what Germany has not attempted to seize. Article 297(F) recognizes principle of restoration of property in specie wherever possible.

Standard Oil Company of New Jersey in meeting Allied war needs lost during the war by enemy action 10 ships under American flag aggregating 76,674 tons deadweight. Nine of these were tankers aggregating 69,144 tons which exceeds by 16,000 tons the aggregate tonnage of tankers now at Hamburg.

In March last Standard Oil, on hearing a rumor that the French Government intended to claim the tankers as part of its individual indemnity, filed with this Department a written protest against supposition that property rights of an ally and friend, which had escaped enemy appropriation, might be appropriated for the benefit of another ally and friend. The matter was supposed to be have been dropped, but in a debate in French Chamber of Deputies on July 2d, the Minister of Public Works declared the Government intended to make every effort to get the tankers, and reference was also made to the proposed State Monopoly in France of the purchase and importation of Refined Oil and Gasoline, and of the importance to the Government of constituting a petroleum fleet.

Please give copy to Under Secretary Polk for his information. Identical instructions cabled to London.

LANSING

362.115 St 21/60 : Telegram

The Acting Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 16, 1919—8 p.m.

3151. Referring to question of sailing of D.A.P.G. tank steamer[s] from Hamburg to New York, Navy Department, September 4, cabled its representative to direct Admiral McCully, representing United

States on Interallied Armistice Commission, to make every possible endeavor to obtain permission for ship[s] to sail. Navy, September 11, received following reply:

"Admiral McCully reports that twelve German oil tankers manned by German crews were provisionally exempted from delivery by allied maritime transport council in Brussels, according to agreement of March 14th, 1919, but cancelled by President Allied Naval Armistice Commission August 15th, 1919 and the vessels ordered to proceed at once to Firth of Forth for delivery to Allied and Associated governments. On information requested at that place the vessels will be allocated to France, Great Britain, Italy and the United States by the Allied Maritime Transport Executive which refuses to authorize these vessels to proceed on commercial voyage until after such allocation and until manned by crews of Allied and Associated Governments. The first allocation is to be made to the French Government. Question of ownership of these vessels has not been brought up but the British consider them as German owned. None of these vessels has yet been delivered at the Firth of Forth, Scotland. The Supreme Economic Council in Paris is now only authority capable of reversing the action already taken."

Clause in Brussels Agreement March 14 reads: "2. The German delegates further raised the question of exemption of tank vessels. They were informed that for the time being the Associated Governments would not insist upon the delivery of any tank steamers." Department is not informed on what authority President Allied Naval Armistice Commission on August 15 assumed to cancel this exemption, or on what authority Allied Maritime Transport executive refuses to authorize commercial voyages of ships not allocated or assumes to make further allocations, and is of opinion that no such authority existed.

Please confer with Embassy as to instructions in Department's August 13, 5 p.m., and endeavor to bring about immediate despatch of D.A.P.G. steamers to United States for transportation of petroleum supplies to German market where such supplies are urgently needed.

PHILLIPS

362.115 St 21/61a : Telegram

The Acting Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 16, 1919—5 p.m.

3145. Supplementing Department's September 15th relative German tank steamers.⁴⁶ Dulles⁴⁷ reached Department just after

⁴⁶ Refers to telegram no. 3151, *supra*, which was drafted Sept. 15 but not put on the wire until Sept. 16.

⁴⁷ John Foster Dulles, financial adviser, American Commission to Negotiate Peace.

sending of this telegram. He points out that in view of the non-representation of United States on Supreme Economic Council the Supreme Council is the only body upon which the United States is represented which has authority to dispose of this matter.

He points out (1) that question of whether these boats should be utilized by Allies or left to Germany for utilization was given consideration first at the time of the negotiated Brussels Agreement and secondly by special Committee appointed to consider reparation for Scapa Flow sinking. On both of these occasions it was agreed to leave these boats to Germany for utilization. (2) The need of Germany for petroleum products is recognized and the receipt by Germany of such products is essential to enable Germany to reconstitute herself for making reparation payments.

In view of these facts and that the blockade of Germany has been raised by action of the Supreme Council which promised Germany freedom of commercial intercourse, the Department believes that the Mission should press vigorously for a decision by the Supreme Council which will permit of the utilization of the boats by Germany pending their being disposed of in conformity with the treaty provisions.

PHILLIPS

362.115 St 21/63 : Telegram

The Acting Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 23, 1919—5 p.m.

3214. Department's 3145, September 16, 5 p.m., and No. 3151 of September 16, 8 p.m.

American Legation, Brussels, reports that Supreme Economic Council voted, September 21, to uphold decision of Allied Maritime Transport Executive, withdrawing exemption of tank steamers granted by Brussels agreement, refusing present use of D.A.P.G. tankers for commercial voyages, and directing tankers be immediately sent to Firth of Forth for allocation.

Department urges every effort be made, for reasons set forth in previous instructions, to have Supreme Council overrule decision of Supreme Economic Council, and allow present utilization of tank steamers.

PHILLIPS

763.72119/6986 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, September 28, 1919—7 p.m.

[Received 10:50 p.m.]

4409. Your 3215 [3214], September 23, 5 p.m. At meeting of Supreme Economic Council [*Supreme Council?*] September 27 the following decision was taken:

"1. The provisional exemption of tankers granted at Brussels on March 14th, 1919, is hereby canceled. This cancellation to be without prejudice to any previous action taken by the A[llied] N[aval] A[rmistice] C[ommission].

2. The vessels shall be delivered for temporary management to the Allied and Associated Governments according to the division decided upon by the A[llied] M[aritime] T[ransport] E[xecutive] on September 17th, 1919, under the usual armistice terms which in no way prejudice the final division to be made by the Reparation Commission provided for by the Treaty of Versailles.

3. Should the German Government so desire, the said ships shall be employed under the above terms for one voyage for the conveyance of oil to Germany. Should a second voyage be asked for by the German Government the matter will be again referred to the Supreme Council.

4. In consequence, the said vessels shall be sent forthwith to the Firth of Forth in compliance with the instructions of A.N.A.C."

This solution, which was proposed by Loucheur, French Minister of Reconstruction, was reached after discussions at three meetings and will accomplish the object immediately in view of allowing present utilization of tank steamers. It was understood in addition: (1) that the vessels should not be allowed to sail under the German flag but would go out under that of the A[llied] M[aritime] T[ransport] E[xecutive]; (2) that the crews could not be German; (3) that it was understood that no effort would be made to detain the ships in United States pending the final decision as to their ownership.

It is believed that this disposition of the matter will achieve the result which appears most essential; viz., that the Reparation obligations incumbent on Germany under the treaty will not [be] delayed by want of oil products the need for which in Germany at present is conceded on all hands. In the course of statements made both in the Supreme Council and in the Interim Reparation Commission, protests were made by the American representative against the unauthorized action of the Supreme Economic Council and it is now well understood that the United States Government does not consider itself bound by decisions made by this body in the absence of American representation on subjects in which the United States

are interested. The protest which was telegraphed by American Mission to American Legation at Brussels on September 19th immediately on receipt of the news of the reference to Brussels, arrived in mutilated condition the day of the meeting in Brussels and American Legation did not receive a confirmation until after a vote had been passed revoking the exemption of the steamers and after the meeting had adjourned. No permanent detriment has, however, resulted from this accident as subject was considered by the Supreme Council as if no decision had been made by the Supreme Economic Council. Polk.

AMERICAN MISSION

763.72119/6986 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, September 30, 1919—4 p.m.

3286. Your 4409, September 28, 7 p.m. . . .

Department does not regard decision as satisfactory for the following reasons:

1. Department understands that the tankers in question were exempt from Brussels Agreement, and exemption confirmed by Supreme Council after Scapa Flow sinking for reason, first, that the need of Germany to use these ships to import oil was recognized and, secondly, the equitable ownership of these boats by an American Corporation was deemed to be a reason for not requiring action by Germany which would in substance be at the expense of American interests. Department perceives no reason as to why the considerations which prevailed on this previous occasion should now be abandoned.

The second point of decision of Supreme Council requiring delivery of vessels for temporary management of allied and associated governments cannot it seems to the Department but prejudice the final disposition of these boats (and others which might as to beneficial ownership be similarly situated) since the only known basis of allocation (outside of repatriation needs which is not here applicable) is that ships should be allocated in accordance with ton for ton replacement principle adopted by the Treaty. In any case it is believed that once these vessels come into the control of British and French and are manned by their crews it will render it exceedingly difficult to have these boats restored to the Standard Oil as had been hoped in accordance with Paragraph 20 of Annex 2 and the private shipping agreement signed by the President and Mr. Lloyd-George a copy of which agreement is in volume of reparation papers.⁴⁷

⁴⁷ For text of agreement, see p. 512.

With reference to the third point of the decision it is noted that the ships shall be employed for one voyage for conveyance of oil to Germany. It is not provided that the voyage shall be from the United States to Germany. In view of the fact that this whole question appears to be involved in the rivalry of the Standard Oil and Royal Dutch Shell Companies, it is believed important that these Standard Oil vessels should not be disposed of in such a way that they will be put at the disposal of the Standard Oil's chief foreign competitor in order that that competitor may obtain Standard Oil market in Germany.

On account of the importance of the matter at issue and the danger of establishing an unfortunate precedent, the Department desires that the matter be reconsidered by the Supreme Council with a view either that the exemption of tankers be maintained and tankers allowed to proceed to sea on such business as their owners may decide or that they all be provisionally allocated to the United States. Either action to be entirely without prejudice to the ultimate solution arrived at with reference to these vessels pursuant to treaty of Versailles and Wilson and Lloyd George Shipping Agreement.

LANSING

862.85/891 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, September 30, 1919—10 p.m.

[Received October 1—7 a.m.]

4447. Newspaper despatches state transfer of steamer *Imperator* to British has been held up by Shipping Board and reasons given are that Shipping Board intends to hold that ship until British release German tank ships belonging to Standard Oil subsidiary.

I earnestly beg you to give this matter most careful attention . . . My understanding is that the ships were allocated to the United States for the purpose of bringing home troops on the understanding that, as soon as troops were repatriated, the *Imperator* should be returned to the Allied Maritime Transport Executive for allocation. It would seem that there is no justification whatever for the action of the Shipping Board in attempting to control the movements of the *Imperator* or these other ships and particularly no justification for holding them up on the plea that they wish to hold them until they can compel Great Britain to make some favorable settlement in regard to the German tank ships. There are three facts which should be born[e] in mind. First, the fact that the tank ships belonged to the Standard Oil German subsidiary gives us no claim whatever to the operation of these boats. Our only jus-

tification for taking any position in the matter at all is to protect German interests. As I understand the law there would be no possibility of the United States Government getting any of these tank ships merely because the Standard Oil had an interest in the German company which owned them. Second, I believe it to be a fact that the United States has, and is now operating, 17 tankers, formerly the property of the Germans, which were in our ports at the time war was declared. If that is a fact it would seem that we were far better off as far as tank ships are concerned, than any other European power. Third, there is a widespread opinion in England which bitterly resents the retention by the United States, of the ships we seized at the outbreak of war. However unjustified this may be it is a matter of delicate character and any new aggravation only serves to magnify the old. The *Imperator* incident is therefore especially regrettable, . . .

Please have some one get all the information immediately on this subject and let me have it as I feel sure the question will be raised by the British and French.

Am also informed that the other ships allocated to us for the purpose of bringing home troops have been turned over to the French and it would hardly seem consistent with the holding up of ships which are to go to the British. Polk.

AMERICAN MISSION

362.115 St 21/320a : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, October 6, 1919—7 p.m.

3360. The British Ambassador has presented a note to the Department in reference to the detention of the *Imperator* and other German vessels and an important conference has been held with him and Lindsay of the Embassy in regard to the matter of the *Imperator* and that of the German tankers and their mutual relation.

In reference to the *Imperator* and other German ships, British note states in substance that an attempt had been made by the French Government to obtain use of these vessels from the United States and that the question of decision was referred to the A.M.T.E. which body had decided for the British. The French had objected to decision except as regards the *Imperator* and the matter had been brought up through the Supreme Economic Council to the Supreme Council where it was now pending. Also that the United States London representatives of the Shipping Board had stated that on

August 12 instructions had been received by them to notify the A.M.T.E. that the United States would relinquish the management of enemy passenger vessels ship by ship as released from repatriation service and inquired as to whom they should be turned over in New York. The note stated that answer had been made to the Shipping Board as to whom the *Imperator* should be handed over and that arrangements to take her over had since proceeded and British crews sent for this purpose. They state the present action of the Shipping Board is therefore quite inexplicable unless it may be assumed that it is due to friction with regard to the tankers.

As regards the tankers their contention is to the effect that although Great Britain is only interested to a comparatively small extent in the management of the tankers the action taken by the United States by holding *Imperator* falls entirely on Great Britain and that the position in which the British Government is placed, having sent over to the United States hundreds of British seamen to take over the *Imperator* and other German ships is one of serious difficulty. They also pointed out that a settlement of the tanker controversy had been affirmed by the American Mission in Paris.

In reply it was pointed out orally that the matter of the detention of the *Imperator* was being investigated and that the State Department was as yet unable to make a statement in this regard except that it was understood on the information received that certain necessary repair and refitment had to be made and that a strike now going on in New York made it impossible to complete the refitment at the present time which was a necessary condition to the receipt of the German ships by the British Shipping Ministry. The British pointed out their embarrassment and great difficulty with respect to handling the crews sent over for return of these ships. The State Department immediately made arrangements to have these men accommodated on Ellis Island. As yet have not heard whether the crews have been moved there or not. British emphasized the fact that they feel it unfair that on account of confusion as regards the tankers that retaliation should be made to fall wholly on them when the matter of tankers was one in which they were little interested and only one of five powers benefited. In answer it was pointed out that as yet no position had been taken by the United States Government to use the retention of the *Imperator* as a means of retaliation for action taken in the tanker matter. It was pointed out, however, that there was strong feeling in many of the Departments of the Government that the United States had been badly used in regard to the tankers; that the confusion and difficulty had arisen on account of the arbitrary action and obstructive tactics of the British President of the N[aval] A[rmistice] C[ommission]; and

that Mr. Polk's agreement in Paris to the allocation of the A.M. T.E. was predicated on a report of Sir Eyre Crowe which from our understanding of the facts we felt to be misleading.

Reports were read to Mr. Lindsay of the British Embassy giving full details of the arbitrary and obstructive policy of the British N.A.C. and Admiralty officials and it was suggested that if Great Britain would support the American view of the matter the disposition of the tankers could be quickly settled. The strength of public opinion in the matter was pointed out and it was brought to the notice of Viscount Grey that under the Lloyd George Agreement there was at least a theoretical connection between these two questions, in that first the provisional allocation of the *Imperator* and other German pooled ships to Great Britain on the basis of ton-for-ton replacement of loss, and second the assignment of the German tankers to the United States or her nationals for use and management either by way of provisional allocation or exemption by the Brussels Agreement were both (first and second) equally a pre-execution during the Armistice period of the provisions of the Lloyd George agreement. And that the United States had relied on the understanding that these tankers would be under the operation and control of United States citizens during the armistice period when she had urged the Reparations Commission to instruct the A.M.T.E. that on satisfaction of the repatriation needs, the allocation of the German pooled vessels should be made provisionally on the ton for ton replacement basis under the policy outlined in the Wilson-Lloyd George Agreement. Both Viscount Grey and Mr. Lindsay of the Embassy admitted the similarity of the cases in this regard and the strength of the argument and intimated that they would telegraph at once to the British Foreign Office showing our understanding of the situation and pointing out our feeling concerning the theoretical connection of these two cases.

We urge that this is the time to press strongly for the settlement of the tanker situation as described in our 3322 of October 2, 1919,⁴⁷ and we think that if sufficient pressure is brought by you on the British that possibly they may, on their own initiative, take the matter up with Mr. Clemenceau who agreed to the Wilson-Lloyd George agreement in so far as it related to the rights of England, France and America.

It is considered important that you take steps to have tankers held in Hamburg until matter is again considered by the Supreme Council.

LANSING

⁴⁷ Not printed.

862.85/913a : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, October 16, 1919—4 p.m.

3451. For Polk.

Your 4650 October 13 and 4625 October 11.⁴⁸ Confusion and uncertainty has apparently resulted here and in Paris by telegraphic errors and telegrams which have crossed each other in transmission. We are therefore preparing for you an entire restatement of the tanker case which we hope will give the necessary information on which to act. This will be cabled as soon as possible. You understand we are not in accord with the action and opinion of the Shipping Board which couples the two questions of the *Imperator* and the tankers together.

For your information I quote a telegram forwarded to Davis⁴⁹ at London in reply to a personal telegram forwarded through Davis to Shipping Board from Sir Joseph Maclay⁵⁰ asking Payne's⁵¹ personal good offices in expediting transfer of the *Imperator* to Great Britain:

"Amembassy London. Your 3211 October 9.⁵² Following is reply of Shipping Board to cablegram from Sir Joseph Maclay:

'In view of what appears to us the arbitrary action of Great Britain with reference to the American tankers I have felt that the Shipping Board should retain the *Imperator* group of ships and place the same in service until Great Britain turned over tankers to the United States flag.

I have further to urge to your consideration and good offices that the requirements of the United States Shipping Board to properly serve urgent demands for passenger service dictate the importance of securing a sensible proportion of the German ships of liner class to be selected from the so-called *Imperator* group and/or the vessels approaching completion in Germany, such as *Bismarck*, *Columbus*; and others; and it is felt that in consideration of this matter it is important that we be given the opportunity of presenting our situation for consideration of the duly authorized joint councils created by the Peace Conference dealing with a settlement of such questions. Payne, Chairman'

You may transmit the quoted communication to Maclay but in so doing please state that the State Department disclaims any responsibility for the statement therein contained."

I have informed the British Embassy here that we disapproved of the action of the Shipping Board in retention of the *Imperator* but are powerless at present to expedite the transfer of the *Imperator* without the sanction of the President which his sickness makes im-

⁴⁸ Neither printed.

⁴⁹ Norman H. Davis, financial adviser, American Commission to Negotiate Peace; Assistant Secretary, U. S. Treasury, from Nov. 1919 to June 1920.

⁵⁰ British Shipping Controller.

⁵¹ John Barton Payne, Chairman, U. S. Shipping Board, July 31, 1919, to Mar. 13, 1920.

⁵² Not printed.

practicable just at the present. In light of this I am transmitting this telegram because Judge Payne so requests and because it may make easier in the future repudiation of the action of the Shipping Board. Judge Payne looks at the whole matter from the point of view of expediency and refuses to discuss it on a basis of right. This telegram should be to the British an evidence of this fact. You may let the British understand our position in this regard. For your further information the Shipping Board at present refuses even to consider a compromise solution of the tanker question which would allow the ships to depart on their first voyage between the United States and Germany leaving the question of management subsequent to initial voyages to decision of the Supreme Council.

. . . We are attempting to induce Judge Payne to accept the compromise solution mentioned above. I hope to take up the question of the *Imperator* at the next meeting of the Cabinet and then will probably be able to give you more definite information in regard to it.

LANSING

362.115 St 21/324a : Telegram

*The Secretary of State to the Commission to Negotiate Peace*⁵³

WASHINGTON, October 22, 1919—8 p.m.

3532. For Polk.

Pursuant to our 3451, October 16, 4 p.m., please present confidentially a memorandum in the sense of the following to your British and French colleagues on the Supreme Council and request that the matter be taken up as soon as possible by the Supreme Council.

“(1) The Government of the United States is not satisfied with the decision of the Supreme Council in regard to the German tankers originally exempted under the Brussels Agreement. It has always maintained that these tankers are beneficially owned by citizens of the United States and until the war had been under the complete operative control of its citizens.

(2) The Deutsch-Amerikanische Petroleum Gesellschaft, the German corporation which holds the legal title to the nine tankers in question has since 1905 been owned and controlled by the Standard Company of New Jersey. In 1905 the Standard Company acquired all of the 9,000,000 marks capital stock of the D.A.P.G. which carries voting powers. Since 1911 it has owned all but 26 of the 21,000 D.A.P.G. share warrants and also owns the entire issue of debenture bonds totalling 30,000,000 marks.

⁵³ Sent in two sections.

(3) The investment of the Standard Oil Company in the D.A.P.G. was appraised in 1914 at \$48,500,000.

(4) The control of this company and of the operation of the ships has resided in and been fully exercised by the Standard Company until hostilities rendered the operation of the ships impracticable.

(5) The beneficial ownership of these ships in an American corporation has been recognized by the Allied Powers.

(6) The *Leda* a D.A.P.G. tanker captured in 1914 was condemned by the Bermuda Prize Court (volume I, British and Colonial Price [Prize] Cases, page 233). The Standard Company, the beneficial owner having made claim for the release and redelivery of the vessel, the British Crown on this ground released the *Leda* by instructions through the British Embassy in Washington and by final order of the Court.

(7) A bond required and taken by Great Britain in consideration of the release recited that application had been made on the ground of beneficial ownership and that on said application the King had agreed to release the ship to the Standard Company. A bill of sale by the British Admiralty and a certificate by the Supreme Court of Bermuda (January 13, 1915) were given to the Standard Company.

(8) Twenty-six tank steamers were transferred in 1914 and 1915 from the German to the American flag and the legal ownership from D.A.P.G. to the Standard Company with the assent of the British and French Governments. It would seem clear that such transfers could be only effective with the assent in fact of Great Britain and her Allies and the employment of the ships on the high seas as only possible with Allied recognition of their ownership and registry. In addition, however, these transfers were discussed with the British and French Embassies in Washington and consent was embodied in official letters therefrom. The Daimler case in the House of Lords July 1916 and other recent cases recognize that the corporate fiction may be disregarded in favor of the ultimate beneficial interests involved.

(9) It is the recollection of those present at the negotiations culminating in the Wilson-Lloyd George agreement of May last, which had in part to do with the recognition and satisfaction of the beneficial ownership of Allied nations in ships which had been under the German flag, that the agreement was made with the special case of the tankers in mind and that Mr. Lloyd George was prepared to admit the beneficial ownership of the United States in these tankers but that he was not satisfied in his mind whether its satisfaction called for specific transfer of the ships to the American flag or for financial compensation. In regard to financial compensation, the United States takes the position that the long vested right of control and operation of the specific ships is the essence of the beneficial ownership exercised by its nationals and cannot be compensated by financial remuneration.

(10) The Department understands that among the reasons for which under the Brussels agreement the ships were provisionally exempted were first that American oil might be carried to Germany and second that they should be operated as before the war under control of American interests. It is noted that the accomplishment

of the first purpose could have been affected [*effected*] by allocation to that purpose by the A.M.T.E. but that the exemption accomplished directly and more simply the second purpose stated.

(11) After the sinking by the Germans of their fleet at Scapa Flow a special committee was appointed by the Supreme Council to consider demanding special reparation from Germany. It was proposed before this committee that as such special reparation the exemption of tankers under the Brussels agreement should be cancelled and the tankers delivered by Germany for allocation among the Allied and Associated Governments. Realization, however, that so-called reparation in this form would really be at the expense of the American interests led to the proposal being rejected by the Committee whose conclusions were approved by the Heads of States. Thus again the essential character of the tankers as American vessels was affirmed.

(12) After the ratification of the Treaty by Germany it was thought by the American delegates that the Allied and Associated powers by the raising of the blockade and allowance of freedom of commercial intercourse with Germany had waived their right of capture on the high seas of German vessels so exempted and that there remained no further obstacle to the carriage of oil from the United States to Germany on these ships. The Standard Oil representatives were so advised. They were notified, however, by Allied shipping representatives at Hamburg that no licenses would be issued to permit the ships to proceed to sea and that if they proceeded without license they would be seized by Great Britain and taken before a Prize Court. Mr. Dulles, the American representative on the Interim Reparations Commission, immediately both in writing and orally, brought to the attention of his colleagues on the Commission the necessity, from the point of view of reparations, of importing oil to Germany. It was this aspect of the matter which the various delegates on the Reparations Commission individually, but not as action of the Commission as a body, stated they would present to their Governments. The Reparations Commission never purported to confer on the A.M.T.E. jurisdiction to cancel the exemption of the Brussels agreement, first, because it was never supposed that the A.M.T.E. could have such jurisdiction and further because the Interim Reparations Commission did not itself have any such power of cancellation.

(13) There can be hardly any doubt that the action of the President of the N.A.C. in cancelling the exemption was irregular and without jurisdiction and done without the concurrence of his colleagues. The pursuant allocation by the A.M.T.E. was without jurisdiction. Reports conflict as to the position of the American representative on the A.M.T.E. in regard to the jurisdiction of the Supreme Economic Council. Whatever position was taken by him, however, the Economic Council was notified as soon as possible that the jurisdiction to cancel the exemption was not admitted by the United States. It is felt that the American representative on the Supreme Council when the question of the tankers came up for action was not in possession of the full facts of the case. The United States Government with the additional information it possessed did not agree with the opinion expressed at that time by its representative.

(14) The final basis for allocation under the Treaty is a proportional ton-for-ton replacement of shipping losses incurred by the Allies and a due regard for the legal and equitable interests of nationals of Allied and Associated Powers. The provisions of Annex III paragraphs 1 and 3 (Reparations) are to be applied only with regard to the principle established by paragraph 20, Annex II (Reparations) which requires in the broadest sense recognition of "legal or equitable interests" or as in the French text "Tous droits et intérêts légitimes".

(15) The only basis of provisional allocation concurred in by the Allied and Associated Governments after satisfaction of repatriation needs was that proposed by the American representative, to the Supreme Economic Council and by its direction used by the A.M.T.E. This basis was that those powers which by action of the Reparations Commission under the Treaty and the Wilson-Lloyd George agreement, would be entitled to certain tonnage for replacement purposes, should have such tonnage provisionally allocated to them, for use and management during the armistice period.

16. Up until the arbitrary action of the President of the N.A.C. and the resultant allocation by the A.M.T.E. it was assumed by the American delegates that the situation of the tankers as regards use and management during the armistice period was taken care of by the Brussels exemption which in practicable application gave provisional effect to the provision of the Treaty and the Wilson-Lloyd George agreement with reference to the protection of equitable interests and that a scheme of provisional allocation such as outlined above could have no possible application to these tankers. It was with marked surprise, therefore, that the Government of the United States heard of the provisional allocation of the A.M.T.E. The natural inference of the effect of such allocation on final distribution was recognized. Provided beneficial ownership of the United States was admitted, a broad principle of provisional allocation which gives use and management during the Armistice period to powers which would by the eventual action of the Reparations Commission be entitled thereto, should in logical application give use and management of the tankers to the United States during the armistice period. The agreement of the United States to the pre-execution of the Treaty and that part of the Wilson-Lloyd George Agreement which guarantees the major part of the pooled German ships to France and England reasonably entitles the United States to a substantially similar pre-execution of paragraph 20 of Annex II (Reparations) and of the latter part of the Lloyd-George agreement which were both adopted in contemplation of the tanker situation.

(17) The United States Government feels that in view of the importance of the political effect which is of such moment in regard to the expeditious ratification of the Treaty by it, it cannot consent to even a temporary allocation which would be at the expense of long vested American interests; and further that this government cannot agree that the vested right of control of the specific ships be appropriated by Germany for payment of her reparations obligation to others of the Allied powers. The United States Government in ad-

dition is satisfied that if the Allied Powers will so consent a more satisfactory and expeditious final settlement of the tanker controversy can be reached by the powers involved through the medium of the Supreme Council at once rather than waiting for a similar decision by the same powers through the Reparations Commission."

Dulles has approved this memorandum. You may change reference to your position in the latter part of paragraph 13 in any way you see fit.

Section 2. The sense of the following is an informal statement of our views which you may unofficially and in strictest confidence tell orally to your colleagues when the memorandum mentioned in section 1 is presented.

"The Department of State of the United States is conscious of the near deadlock which the present decision of the Supreme Council in regard to the tankers, led up to as it was by an irregular and seemingly arbitrary act of the President of the N.A.C., has caused in respect to an expeditious and satisfactory solution of the controversies in regard to the re-allocation of the *Imperator* group of ships and of the shipping questions between France and the United States.

The Department of State is not in accord with the action of the American Shipping Board and the position it has taken in these particular matters. The independent position of the Shipping Board, however, coupled with the illness of the President presents a situation which complicates the speedy solution of the questions independent of a solution of the tanker matter. The Department feels strongly the great necessity for the speedy and satisfactory solution of all these questions and that full accord between the Allied powers in meeting the difficult problems of reconstruction must be reached and maintained. It is very reluctant to couple the tanker controversy with these other questions but presents for consideration of Great Britain and France the following promises which the Shipping Board has bound itself to fulfil:

'The Board will agree that on the transfer of the tankers to the American flag they will transfer at once to the powers entitled the *Imperator* and such of the other seven ships as will not be needed to repatriate the 50,000 Czechoslovak troops from Vladivostok to Trieste. The Board further promises to make a special effort to expedite the repatriation referred to. The Shipping Board binds itself to expedite a satisfactory solution of the French claims in regard to ships requisitioned by the United States provided that suitable financial arrangements can be agreed upon.'

It is requested that the tankers be allowed to proceed to sea at once on their initial voyages between the United States and Germany under the American flag, final management and ownership of these ships to be decided by the Supreme Council."

For the information of Mr. Polk in reference to the memorandum in section 1. The Department of State in view of the fact that the United States may not be effectively represented on the Reparations Commission when the tanker controversy would in the ordinary course be decided by it, feels that it is of great importance that the tanker matter should be decided by the Supreme Council.

The Solicitor's Office after careful consideration of the question is of the opinion that the attempted transfer by the Standard Oil Company of the capital stock in February 1917 to German interests was never consummated because of the adverse ruling of the Alien Property Custodian and hence the Standard Oil Company still owns all of the capital stock of the D.A.P.G.

The actual situation as regards the Dulles letter of August 28th ⁵⁴ referred to by Loucheur is explained in the memorandum. There apparently has been confusion in the minds of the Mission as to the meaning of the Department's reference to the ton-for-ton replacement basis. This is explained in the memorandum.

The case of the Wagner ships was one concerning an American corporation with a certain German stock interest, whereas the present is a case of a German corporation with entire American stock interests. The former position of the Department in reference to the Wagner case has been reversed because of the discovery of further German interests.⁵⁵ In the case of George Borgfeldt and Company, an American company owning all stock in German subsidiary, the Department decided to protect the interest of the American company in deposits in a London bank made by the German subsidiary and to prevent the taking over of such deposits by British authorities.

In the case of the French requisitioned ships referred to, Mr. Clemenceau on September 5th sent a personal message to the President stating that Mr. Hurley ⁵⁶ had agreed to hand over to France 26 steel ships ordered from American shipyards by the French Government in 1917 and requisitioned by the United States and that Judge Payne had written to the French Shipping representatives that he refused to hand over the ships. On investigation it was found that there had been some negotiations with the French in reference to retransfer of these ships but that a basis of financial settlement had not been reached nor had the French made a definitive offer in reference to such financial settlement.

When requisitioned by the United States the construction of the ships had hardly begun. In only four cases of the larger ships had even the keel been laid. The French had suggested that the United States, if the ships were returned, should pay full charter hire for the use of the ships less only the construction cost paid by our Government. Such a basis would have been far more liberal than the basis used in settlement with ships requisitioned from our own nationals, with whom it is arranged that when ships are re-

⁵⁴ Not printed.

⁵⁵ For a statement of the Department's former position, see *Foreign Relations*, 1916, supp., pp. 357-358.

⁵⁶ Edward N. Hurley, Chairman, U. S. Shipping Board, July 24, 1917, to July 31, 1919; technical adviser, American Commission to Negotiate Peace.

turned the transferees pay the costs of construction less only a liberal interest charge on the original capital invested by the transferee. It is thought that the Shipping Board are willing to turn over to France, ships of the same tonnage and style as those requisitioned provided France is willing to settle on the same basis as that used for settlement with our own nationals. Any other basis of settlement would be far more liberal than that arranged for with the British or other countries except Norway in which case a breach of treaty was involved. Our Embassy in Paris has some information in this matter. Please cable as soon as possible *re* action of your French and British colleagues since if they will not assent to proposal the matter will have to be referred to the President which on account of his condition may delay the matter for several days and which in any event I feel reluctant to do.

LANSING

362.115 St 21/325 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, October 27, 1919—1 p.m.

[Received 1:30 p.m.]

4844. Your 3532, October 22d and 3572, October 25.⁵⁸ I understand embarrassment in regard to *Imperator* and will try to get British to assist me in the matter. I have no hesitation in letting the latter part of paragraph 13 of your 3532 stand as you wrote it, as I did not understand when the matter first came up, that this was a straight out [and out] fight for the Standard Oil Company, as all the telegrams lay stress on oil for Germany.

I earnestly request your serious consideration of the advisability of asking the Supreme Council to pass on question of title to these ships. I do not see how it is possible for this Council, as it is constituted, to take up this purely legal question. It would seem to be objectionable also to deprive the Reparations Commission of jurisdiction in this matter. The question, as I understand it, is a legal question and depends on the sale the Standard Oil Company attempted to make of their interests in 1917. Germany apparently considered it a good transfer as they did not seize the ships. The ruling of the Alien Property Custodian has no binding effect upon the Council. It would be necessary, unless I am quite wrong, to go into the whole question of sale and the question of the rule of international law in cases of beneficial ownership. I do not think the Council would be willing to sit as a court in this case. We should either suggest an arbitration or let this question go to the Repara-

⁵⁸ Latter not printed.

tions Commission. Please make clear your objection to Reparations Commission.

It is unfortunate that none of the points made by Hoover or points made by our other representatives appear in any of the records in the possession of the Commission. For example such records as we have in our possession are quite silent as to the operation of ships by Germany. As to the use of the German flag on the high seas, of course that would have been out of the question during the armistice.

I hesitate to say anything to the British as to what the Shipping Board will do in case the tankers are released as it would seem a little like an attempt to bribe with something that is really theirs, and besides that they feel too bitterly on this subject. The best thing for me to do is to lay stress on the complication that has arisen as a result of the President's illness and the political situation in America. . . .

Will appreciate an expression of your views as soon as possible.

Polk

AMERICAN MISSION

862.85/935a : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, November 4, 1919—5 p.m.

3669. For Polk.

Referring to tanker and *Imperator* matters, conference was had on October 31 with Lindsay, Counsellor of the British Embassy. The memorandum contained in our 3532 October 22 was read. Lindsay did not seem inclined to question in any way the beneficial ownership of the United States in the tankers and he apparently recognized the force of the *Leda* case and the transfer of 26 additional tank steamers in 1914 and 1915 to the United States flag. He was willing to admit the force of the position of the United States that the long vested right of control of the operation of the ships could not be compensated by financial remuneration. He took the position that beneficial ownership did not however necessarily support the claim of the United States to use and management of the ships during the Armistice period. He appeared to be impressed with the force of the arguments in the memorandum on this point. It was brought out that the provisional allocation on the part of the Supreme Council would possibly have the effect of establishing a *prima facie* case on the part of the Allies for similar final distribution of the ships. He was ready to admit that the anxious attitude of the French and British themselves in regard to their conflicting

claims to provisional allocation of the *Imperator* group even though such provisional allocation was made with the same proviso of being without prejudice to final decision; and that such attitude was proof that they considered a provisional allocation a strong precedent for any later and final decision by the same powers through the medium of the Reparation Commission.

The reasons why the United States hesitated to approve of decision of the matter by the Reparation Commission were frankly explained. The political difficulties were pointed out and also, fear of lack of time for obtaining effective American representation on the commission in time for adjudication of the matter; and finally the apprehension was mentioned that without the representation of the United States on the Commission it would be difficult and if not almost impossible for France and Great Britain to insure the functioning of the Reparation Commission as a judicial body independent of national political interests. Mr. Lindsay admitted the existence of such a danger and said that Great Britain herself realized and was fearful of the difficulty of independent judicial functioning of the commission and that he personally saw the necessity of American participation to insure general judicial action independent of political interests.

Mr. Lindsay was informed that the Italian Government stood for the principle that on proof of beneficial ownership the nation entitled should have an option to ask transfer to it of the specific property and that such principle was founded on the highest British legal precedent.

Mr. Lindsay brought up the question of the *Imperator* group and asked what we had been able to do with the Shipping Board. He was told that we had received a promise from the Shipping Board with reference to the transfer of the *Imperator* and had sent it to you and that both you and ourselves were very reluctant to send it to the British on account of the coupling therein of the tanker and *Imperator* situations. He stated he understood our reluctance but would like to hear the proposal. It was read to him. He asked whether the *Imperator* would be handed over to the powers entitled if the tankers were transferred to the United States for use and management. He was told that we had not proceeded to make the proposition more definite on account of our reluctance to transmit the proposal but that if the British Government wished, we thought we would be able to cause the Shipping Board to agree to hand over the *Imperator* on the conditions stated provided the tankers were allowed for use and management to the United States pending the decision of the Reparation Commission.

It was then stated merely as an incidental matter that there was some ground for the Shipping Board coupling the *Imperator* and

tanker matters in the light of the apparent agreement between Great Britain and France that France should be allowed the majority of the tankers provided she would withdraw some of her claims to ships of the *Imperator* group. Our knowledge of such agreement made a great impression on Lindsay and he made no denial of the agreement though protesting he knew very little of its details. After mention of the agreement he made no more protest about the coupling of the two matters.

Lindsay further stated that the use of the *Imperator* group of ships for repatriation of the Czecho-Slovaks was one for the A.M.T.E.

I hope that I will be able in the near future to take up with the President the *Imperator* matter and receive from him unconditional directions to transfer the *Imperator* group to the powers entitled on completion of repatriation needs. In the meantime we think the A.M.T.E. should pass on the question of the use of the *Imperator* group of ships exclusive of the *Imperator* herself for repatriating the Czecho-Slovaks. The Shipping Board makes a further proposal that these ships of the *Imperator* group be used for temporary replacement for other ships now in commercial service which would be more suited for these repatriation purposes. As the A.M.T.E. was once notified that the *Imperator* group was not further needed for repatriation purposes, it would seem that information of these further needs should be submitted to them. If you approve, please take this up with the A.M.T.E.

LANSING

362.115 St 21/80 : Telegram

The Secretary of State to the Commission to Negotiate Peace

[Paraphrase]

WASHINGTON, November 5, 1919—11 a.m.

3674. Referring to your 4844 of October 27, 1 p.m.

1. For the following reasons it was at first thought wise to ask final decision as to ownership of the tankers by the Supreme Council:—

(a) The political situation here is such that there would be a serious result as regards the ratification of the Treaty if there should appear any failure on the part of the Government to safeguard fully the rights of the United States which eventually may be adjudicated by a treaty commission with somewhat loosely defined powers.

(b) The position of Senators who desire to restrict the jurisdiction of the Reparation Commission or other Treaty Commission respecting the adjudication of any question involving American rights would be greatly strengthened in case of a decision of the Reparation

Commission adverse to the interests of the United States and biased by economic or political necessities of European countries rather than based on judicial principles.

(c) Unless decision on tankers by Reparation Commission is delayed considerably it might be difficult to insure effective American representation on it and the bringing about of an effective understanding that on legal questions the Reparation Commission will act as a court independent of political interests.

(d) While Supreme Council decision would require unanimous vote, it would seem under the 13th paragraph, annex II (Reparations) that matter of the tankers might be decided by a majority vote. It could perhaps be argued that under subparagraph (f), paragraph 13, annex II, the decision as to beneficial ownership might be treated as a question of interpretation of paragraph 20 of the same annex, thus requiring a unanimous vote. It is felt, however, that the ultimate question as to whether the United States, having proven its beneficial ownership, should receive the tankers or merely financial compensation, could be decided by a majority vote. To argue that this was a question of interpretation of paragraph 20, Annex II, would be very difficult.

(e) In Department's 3528 of October 27 [22], 7 p.m.,⁵⁷ it was indicated that if the Senate should refuse to ratify the treaty the United States would not be bound by any decision in the tanker case by the Reparation Commission, on the ground that refusal to ratify cancels the treaty and the negotiations leading up to it and that there will therefore remain no agreement by the United States to present her claims to the Reparation Commission for adjudication. On the other hand decision by the Supreme Council might be construed as a special agreement by the United States to submit the claims to solution by diplomatic representatives.

2. The Department feels, on the other hand, that the Reparation Commission is the proper body to decide the question of ownership of the tankers for the following reasons which probably have already occurred to you:

(a) The Supreme Council is a political body established originally by the Peace Conference to settle conditions of peace with Germany and not to consider particular cases arising under terms of the treaty with Germany. In the case of the DAPG tankers the parties to that treaty have established the Reparation Commission to which the question of ownership of the tankers may be presented for consideration. All arguments of the Standard Oil Company and the United States may be addressed to that commission.

(b) If its rights and interests are fairly treated and properly safeguarded, the United States should stand by the provisions of the treaty which it has agreed to. It should not be led into a subsidiary agreement attempting to modify the treaty or to bind the decision of a body set up by the treaty. Furthermore, such agreement or understanding reached by the Supreme Council after the signature of the treaty with Germany, and while the Senate is nearing the close of its consideration of the treaty, might subject this Govern-

⁵⁷ Extract printed in *Foreign Relations*, 1919, vol. I, p. 16.

ment to criticism as endeavoring to modify the terms of the treaty after it had been submitted to the Senate, by a diplomatic agreement which is not to be laid before the Senate.

(c) It could be argued that if the case of the tankers came up for consideration by the Reparation Commission before the treaty has been ratified by the United States, and if, after a decision by the Reparation Commission, the treaty should be ratified, without express reservation as to such decision, the decision might be binding on the United States. Because of this possibility it would be desirable for you to let your colleagues know that the United States expects not to be bound by any action of the Reparation Commission where American interests are affected, before ratification of the treaty by the United States and the participation of an American representative on the Commission in cases where American interests are involved. It is planned that the appointment of an American representative on the Reparation Commission and his participation in the proceedings of that body will be synchronous with deposit of ratification of the treaty. Since the Wilson-Lloyd George Agreement, which we understand is now adhered to by both Italy and France, provides that the Reparation Commission will "give public notice that after an interval of two months they will proceed to divide the vessels, except those captured, seized, or detained by the Allied or Associated Governments which are to be retained by them respectively as hereinbefore provided", it appears that the case of the tankers can not be adjudicated by the Reparation Commission until at least two months after the treaty comes into force.

3. It seems therefore that under the provisions of the German treaty, American interests would be protected if it were clearly understood that the case of the D.A.P.G. tankers would not be brought up before the Reparation Commission before the United States ratifies the treaty and appoints an American representative on the Commission. On such conditions it seems desirable to leave to the Reparation Commission the final decision in the matter, the Supreme Council reversing its former decision regarding provisional allocation and allowing the tank steamers to remain under the original exemption of the Brussels agreement, if pending the final decision their use and management cannot be allocated to the United States.

4. Referring to your second paragraph stating that Germany considered the transfer of stock by the Standard Oil Company as a good transfer, it is noted that as far as we are informed Germany seized almost no alien property except that which she could use and in such case merely appointed managers. However, we do not have complete official information on this point.

5. Please inform us whether any of the other nations in Paris have brought up the point of the sale of the stock by the Standard Oil Company, which was not recognized by the Alien Property Custodian.

6. Referring to your paragraph 5, if you point out to the British the complication caused by the illness of the President, the Shipping Board's independent character, and the political situation in America, they will probably ask what the Shipping Board will do regarding the *Imperator* group of ships. If they do, it might be easy for you to point out that though the Department is reluctant to couple the *Imperator* and tanker situations, the Shipping Board has made the proposition which has already been sent to you.

7. You may be interested to know that Tobey ⁵⁸ has reported evidence of an agreement by the British with the French that in consideration of their obtaining the biggest share of the tank steamers, the French will withdraw their claims to some of the *Imperator* group. If true, such an agreement may have serious bearing on future decisions of the Reparation Commission and couples on their part the *Imperator* and tanker situations.

8. In your 4875 of October 28 ⁵⁹ you state that in the second paragraph of the memorandum in our 3532 ⁶⁰ we speak of the Standard Oil Company owning and controlling 5 "tank elevators" at Hamburg and that you thought there were in all 14 tank elevators. Without a doubt tank elevators is a telegraphic error and means tankers. In the second paragraph of our memorandum it is stated that the D.A.P.G. holds legal title to 9 not 5 tank steamers. The Standard Oil Company's claim covers only the tankers belonging to D.A.P.G. These are the *Mannheim*, *Helios*, *Sirius*, *Niobe*, *Pawnee*, *Hera*, *Loki*, *Wotan*, and *W. A. Riedemann*.

9. Standard Oil Company has made further mention of three other tankers assumed to be under construction for the D.A.P.G. in Germany under contracts made before the war.

10. We see no reason why it would be unsatisfactory if tankers other than the D.A.P.G. were allocated temporarily to the French and Belgian Governments and sent to the United States for oil for Germany reserving any American rights, equitable or legal, which might come to light hereafter.

11. We feel that reports on conversations given by Hoover, Dulles, and Davis are entitled to as much credence as Loucheur's statements unless contrary understandings can be proved by the Allies. It is our understanding that Loucheur was not present at the Brussels Conference.

12. Will comment soon on procedure for establishing title to the tank steamers asked for in your 4875 of October 28.

LANSING

⁵⁸ Comdr. E. C. Tobey, American assistant naval attaché at London.

⁵⁹ Not printed.

⁶⁰ *Ante*, p. 554.

862.115 St 21/85 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, November 11, 1919—11 a.m.

[Received 1:52 p.m.]

5108. In my talk with Crowe⁶¹ today we took up tanker question at length. It is very evident that the British cannot agree to the Germans operating the nine tank ships claimed by Standard Oil Company. Their proposal now is that the five tank ships which belong to the Germans should be allocated and that other nine, which the Standard Oil Company claims, should be held pending decision of the Reparation Commission. Please let me know immediately your views as to this proposed basis. It may be that I can persuade them, although it is doubtful, to permit the operation of the boats by Americans. Crowe's naval adviser frankly told me that the reason they could not permit the Germans to operate these ships was that there were thousands of masters and sailors out of employment in Great Britain and there would be a storm of protest if these ships, which should be operated by one of the Allies, were permitted to go out with German crews. I can understand that there is a serious political question involved as far as German operation is concerned.

I hope to have arranged that the nine ships will be held in Hamburg for the present. I feel the negotiations should be pressed in Washington, particularly in view of the fact that Lindsay seems to be sympathetic. See your 3669, November 4th. Dresel⁶² is seeing the French this afternoon and I [shall] report what he finds. Polk.

AMERICAN MISSION

862.85/933 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, November 14, 1919—midnight.

[Received November 15—11:50 a.m.]

5200. There was a long and very unsatisfactory discussion of the tanker question this morning. I proposed that in view of the fact that the action of September 27th⁶³ was taken without a full knowledge of all the facts the action should be rescinded and the 9 ships should be held in Hamburg pending negotiations between the French, British and myself. This was vigorously opposed by Bérenger representing the French and by the British. I pointed out that

⁶¹ Sir Eyre Crowe, of the British Foreign Office.

⁶² Ellis Loring Dresel, technical adviser, American Commission to Negotiate Peace; American Commissioner at Berlin, Jan. 1920.

⁶³ See telegram no. 4409, Sept. 28, 1919, p. 547.

the ships had been exempted from allocation in March and spoke of the understanding Hoover, Davis and Dulles had had with the various representatives and urged for political reasons that the action be rescinded. I pointed out that there was considerable agitation [*irritation*] in the United States now growing out of the fact that it was believed these ships were really the property of a United States company: that the allocation to the French had been made as the result of an agreement between the British and French whereby the French were to receive tank ships and the British passenger ships and that the French had organized a company to operate the ships. Bérenger in his reply read the various resolutions that had been passed; said he had no recollection of any such agreement as we claim and then referred at length to the [seizure of the] *Imperator* group of ships by the Shipping Board and the refusal in spite of the decision of the Reparation Committee to deliver the ships. He spoke of the great shortage of oil in Europe; dwelt on the fact that the Standard Oil Company had attempted to divest itself of title by sale; pointed out that all these questions were questions that required the most thorough investigation and said that he could not see why we should object to the operation by Allies of these ships in the meantime, first primarily for benefit of Germany and [then] for Europe pending a decision.

I pointed out that the question of ownership was not one I was discussing at the moment but at the same time my attempt to keep the Standard Oil Company out of the discussion was futile as the whole fight seems to settle around that point. The British objected to my statement that there had been a secret agreement with the French covering the allocation of passenger ships and tank steamers. They said they had an understanding with the French that they would waive their claim to any share in temporary allocation of the tank steamers in view of the great need of France. The British representatives dwelt on the fact that Germany had been directed to deliver the ships; that the delivery had been prevented by the agents of the Standard Oil Company in Germany; that this really amounted to a defiance of the Supreme Council by a private corporation; that it would make an extremely bad impression on Germany and on the world if it appeared that the decisions of the Supreme Council were subject to modification at the election of a private individual; that it would show to Germany a division among the Allies and therefore they said they could not consent to the [revocation] of the order. This view was shared by the French and by the Italians. Their proposal is that the 14 tank steamers should be delivered immediately at the Firth of Forth; that the 9 Standard Oil Company ships should be held there pending a decision as to their temporary allo-

cation and if that could not be determined then they should be held until the question of title should be finally settled, the other 5 ships if seaworthy to be temporarily allocated to Allies. The French however laid great stress on the fact that this arrangement was conditional upon the immediate delivery of the *Imperator* ships in accordance with the decision previously reached. They also laid great stress on the fact that we were objecting to a temporary allocation on the ground that it might prejudice the final disposition of [the] ships but at the same time we were setting an extremely bad example by jeopardizing [*keeping*] by force without any authority whatever the *Imperator* class.

I told the Supreme Council that it would be necessary to refer the matter to my Government to see if this arrangement would be satisfactory but I indicated in order to protect myself that it was an open question as to whether it would be satisfactory or not.

During the course of the debate Sir Eyre Crowe stated that he had been instructed by his Government on three occasions to bring before the Supreme Council the question of the detention of the *Imperator* and request that the Council direct the Shipping Board to deliver the ships immediately. He said there was great feeling on the subject in Great Britain and his Government was pressing us for action. He and Clemenceau agreed however that the consideration of the demand on the Shipping Board in the *Imperator* case should not be taken up today. Both the French and British dwelt on the fact that the decision of this case would have serious political and popular effect in their countries.

In order to sum up the point on which I wish instructions please let me know whether it would be satisfactory to have the 9 tank steamers claimed by the Standard Oil Company delivered in the Firth of Forth and there held pending an arrangement for their temporary allocation or until the question of the title can be finally disposed of. It is an [*our*] impression that if we release the *Imperator* and other ships our task will be much easier and some think that we surely would be able to secure the [operation] of these ships by the Americans. Polk.

AMERICAN MISSION

362.115 St 21/84 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, November 15, 1919—3 p.m.

3779. Your 5079⁶⁰ and 5108 November 11, 11 a.m. In reference to the first mentioned telegram the difficulty seems to be as pointed out in your first paragraph that the representatives of the Allies have

⁶⁰ Not printed.

no recollection of conversations in regard to the operation of the tankers by the Germans.

The suggestion that the boats might be operated by the Germans was only one of the possible solutions, the others being that they should allow provisional operation by the Americans or that the ships be allowed to rest in port pending final decision. As it seems that there is political difficulty regarding operation of the ships by the Germans because of the protest which would be raised by the masters and sailors out of employment in Great Britain, it might be well to drop the request for German operation, stating it to be in recognition of the political difficulties involved.

In regard to Sir Eyre Crowe's proposal mentioned in your 5108, namely, that the 9 tankers which the Standard Oil claims should be held idle pending the decision of the Reparation Commission, Standard Oil was requested by telegram to furnish their views on this proposition but no answer has yet been received from them. Comment from the Shipping Board was also requested. Payne requests that the following message be sent to you.

"In addition to the considerations heretofore called to your attention, the need of tankers here is very great. You are authorized to make an arrangement by which pending a final decision the *Imperator* group of ships be turned over for use by England and the tankers turned over for use by the United States, this without prejudice to the rights of either party. Meantime as soon as coal is available for shipment to France we will furnish a reasonable amount of tonnage for this purpose."

The Department's attitude is that it desires of course that the D.A.P.G. tankers be operated by Americans and from an economic point of view feels their idleness undesirable. However, if operation by Americans cannot be arranged for, the Department is prepared to agree with the Eyre Crowe proposal. Our position has been that we could not for reasons already given consent to the operation of these boats by the Allies and insisted that if any one should operate these ships during the armistice period they should be either operated by Americans or by the Germans for benefit of the American owners.

The reply of the Shipping Board quoted above is sent for your information for whatever use you think wise to make of it. If used it should be a communication from the Shipping Board for which the Department takes no responsibility. It is not consistent with our view of the case in that we believe the Shipping Board has no right to bargain with property which legally belongs at least provisionally to Great Britain. However, we are orally informed by the Shipping Board that both the British and French shipping com-

missions have intimated they would be willing to compromise on an arrangement such as stated by the Board.

The matter of the *Imperator* has been brought to the attention of the President and Davis has talked the matter over at length with Tumulty. The President was requested to authorize the Secretary or the Cabinet to require the immediate transfer of the *Imperator* group. We are expecting a reply at any moment.

For your information. From conversations with representatives of the Shipping Board it is apparent that the *Imperator* group of ships is becoming a serious financial burden to the Board and causing complications in regard to Naval crews and docking facilities. . . . it would seem that the Board for their own protection would be forced to hand over the *Imperator* group regardless of the decision of the President.

Your 5146 November 12, 11 p.m.⁶¹ The position you plan to take when the *Imperator* question is brought up before the Council would seem to be wise. Please cable us as soon as possible, if you can arrange that the ships remain in Hamburg pending further orders of the Council.

LANSING

862.85/939: Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, November 18, 1919—8 p.m.

[Received November 19—6:27 a.m.]

5261. Following is the text of the memorandum presented by Sir Eyre Crowe to the Supreme Council and considered at the meeting yesterday. I pointed out that unanimity was necessary and that I was not prepared to take part in such a resolution. I undertook, however, to notify my Government that the proposition had been put forward by the British Delegation and was before the Supreme Council. Sir [Eyre] Crowe stated that this was entirely satisfactory to him. British memorandum read as follows:

1. The following ex-German steamers were allocated for temporary management to the United States for the repatriation of their army by the Allied Maritime Transport Council at its fifth meeting in February 1919: *Imperator* 52,117 tons; *Kaiserin Augusta Victoria* 24,581; *Prinz Friederich Wilhelm* 17,082; *Mobile* (ex *Cleveland*) 16,960; *Zeppelin* 15,200; *Cap Finisterre* 14,503; *Pretoria* 13,234; *Graf Waldersee* 3,193 [19,193] (above figures gross tonnage).

2. When these steamers were first obtained from Germany in March last Great Britain, recognizing the vital need of the United

⁶¹ Not printed.

States to repatriate their army fully and frankly acquiesced in these steamers being managed and [employed] by them, though such action delayed seriously the completion of the British repatriation.

3. The United States Government having subsequently intimated that their repatriation work was completed and that the steamers were available for other purposes, it was unanimously decided at a meeting of the Allied Maritime Transport Executive in London, on the 30th July 1919 that all the above-mentioned steamers should be allocated to Great Britain for management. Mr. Anderson representing the United States was present at the meeting.

[4.] Subsequently, the French Government asked to be allowed to use some of these steamers. To meet this claim an arrangement between British and French Governments was arrived at, satisfactory to both parties.

[5.] The allocation of these steamers is only a temporary management and does not in any way prejudice the final disposal of the steamers under the treaty of peace.

[6.] Great Britain's need of these vessels is acute. She has to demobilize her army in India before Christmas. Civilians, including business men, cannot go to the East this year owing to the lack of passenger ships. The waiting list of such passengers to all parts is enormous. Over 25,000 South African passengers are awaiting transportation quite apart from British passengers requiring accommodation. The same, if not worse, applies to India and the East, also to Australia and Canada. Great Britain has to repatriate 400,000 soldiers on long distance work.

7. In the month of September British crews were sent to New York to bring back the *Imperator* and all arrangements were concluded with the United States Military and Naval authorities to move her, but at the last moment the American Shipping Board interfered and refused to allow the vessel to be delivered to the British representative, stating that their instructions were that the *Imperator* and seven other vessels [had] been assigned to them. All argument failed to induce them to admit that such was not the case.

8. The vessels are consequently lying idle and His Majesty's Government is incurring a cost of hundreds of pounds daily in feeding and housing these British crews which were sent to America to bring these ships over.

9. Neither the United States Shipping Board nor United States Government have the smallest conceivable right to detain these vessels.

10. The most pressing representations have been made by the British Government [*Ambassador*] at Washington to United States State Department on several occasions and the State Department admit that the ships ought to be handed over but its efforts have failed to move the American Shipping Board.

11. Early in October Sir Joseph Maclay, the British Shipping Controller, made a personal appeal to the Chairman of the American Shipping Board to release these vessels, but with no result.

12. A complete deadlock has been reached owing to the unjustified action of the Shipping Board.

13. In these circumstances the British Government requests the Supreme Council to address a formal request to the United States

Government to hand over the above mentioned vessels to properly appointed agents of the British Government without delay."

POLK
AMERICAN MISSION

862.85/933 : Telegram

The Secretary of State to the Commission to Negotiate Peace

[Paraphrase]

WASHINGTON, November 19, 1919—3 p.m.

3809. For Polk. Your 5200 of November 14.

1. The *Imperator* matter was taken up with the President by letter on November 5, and pushed in every way possible. A message was received from him on November 17 that he was not ready to consider the *Imperator* matter until he felt stronger. Lord Grey has been informed that for some time the question of the *Imperator* and other German ships has been before the President but that until now he has not been able to decide the matter but that it is hoped that he will decide in the near future. In order that a decision may be given we are doubling our efforts to impress the seriousness of the situation on the President and his assistants.

2. The Standard Oil Company has replied to our inquiry as to their position on the proposition to allow the tankers to remain in Hamburg pending a final decision as to ownership. The following paragraph of their cable shows the substance of their position:⁶²

"We believe that in all the circumstances we are entitled to an immediate determination that the vessels belong to us and to have them turned over to us unconditionally. If final determination of question of title must be deferred we insist that we are in the meantime entitled to possession and use of vessels without prejudice to the ultimate determination of that question. We do not see how we can consistently consent to vessels lying idle in Hamburg."

3. Notwithstanding the Standard Oil Company's position, the Department stands by its position in its telegram No. 3674 of November 5, paragraph 3, although the Department believes that pending final determination of ownership, every effort should be made to bring about American possession and use of the D.A.P.G. tankers. The Department feels that the circumstances require our consent to the delivery of the 9 tankers claimed by the Standard Oil Company to the Firth of Forth and held there until allocated or until the question of title can be finally disposed of.

4. In this connection it would seem possible that the Shipping Board's proposition quoted in paragraph 3 of our 3776 [3779] of November 15 might be acceptable to the Allies.

⁶² Quotation not paraphrased.

5. In response to the paraphrase of your 5200 sent to the Shipping Board the following was today received from them:⁶³

"In view of the very great need of tankers at this moment it does not seem to the Shipping Board wise that the Standard Oil tank ships should be set apart in the Firth of Forth unused. Will it not be possible to effect an arrangement by which pending the final disposition as to ownership of the ships the tankers may be turned over to the United States for use without prejudice and the *Imperator* group of ships turned over to England subject to the ultimate decision as to ownership. This will place all of the ships in use and at the same time protect the rights of all."

LANSING

362.115 St 21/89 : Telegram

The Commission to Negotiate Peace to the Secretary of State

PARIS, November 19 [23], 1919—3 [6] p.m.

[Received November 23—2:46 p.m.]

5371. [Department's no. 3809, November 19, 3 p.m., for Polk,] and other cables as to tankers.

Please state immediately attitude of the Department towards tentative plan outlined in American Mission's 5309 November 20, noon.⁶⁴ This contemplates that the nine tankers claimed by the Standard Oil Company should remain under management of United States until definite distribution by the [Reparation] Commission on the understanding first, that the tankers should proceed at once to America for the purpose of one or two voyages to supply oil to Germany; second, that on completion of these voyages such of the tankers as might be necessary to meet reasonable requirements of France, Belgium, and Italy for operation [*oil*] should be utilized for further voyages to these countries; third, that the ultimate distribution of the ships should be decided at the earliest possible moment, [*viz.*], as soon as the United States Government appoints representatives [duly qualified] to act in the matter on the Reparation Commission.

As stated in American Mission's 5309 Bérenger at first approved the idea of a solution on this basis but the French now state that the matter will have to be passed on by Mr. Clemenceau. It is likely that this modified attitude is caused by an effort to obtain satisfactory credit terms as mentioned in American Mission's 5309. Probable that the British will also accept the arrangement outlined if the French do so.

The foregoing [is sent] in the absence of Polk in London, but at his specific request.

AMERICAN MISSION

⁶³ Quotation not paraphrased.

⁶⁴ Not printed.

862.85/933 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, November 20, 1919—6 p.m.

3834. For Polk. Your 5261 November 18, 8 p.m. and paragraph 6 [5] of our 3809 containing proposition of the Shipping Board. Please present the substance of the following message from Judge Payne as soon as possible either to your colleagues on the Supreme Council or your British colleague alone as you think best.

“Supplementing my message contained in Department’s 3809 November 19, 3 p.m., paragraph 6 [5], in view of the fact that under a misunderstanding Great Britain sent over a crew for the *Imperator* and we are now able to dispense with her, we have decided to deliver the *Imperator* at once. Upon acceptance of my proposal cabled in Department’s 3809, paragraph 6 [5], we shall deliver the seven other ex-German ships. John Barton Payne, Chairman.”

I am informed by the Shipping Board at 5 p.m., today, November 20 that they were telephoning at once to the British Ship Commissioner informing him that the *Imperator* would be transferred to him as soon as he could take possession.

LANSING

362.115 St 21/89 : Telegram

The Secretary of State to the Commission to Negotiate Peace

WASHINGTON, December 4, 1919—2 p.m.

3961. Your very urgent 5371, November 19, 3 p.m. [November 23, 6 p.m.] The answer of the Standard Oil Company just received. The substance of the position taken by them is as follows:

1. They would operate tankers with American crews or even with British crews.

2. They do not wish the ships to sail under A.M.T.E. flag without distinct allied understanding that this does not give the A.M.T.E. control of operations or prejudice Standard Oil beneficial title. They wish the ships to sail under American flag.

3. They do not wish ships to lie idle in Hamburg or in the Firth of Forth.

4. They are not willing under the present circumstances to agree that final determination of title shall rest with the Reparation Commission on account of the possibility of non-ratification of the treaty.

5. The Company is not willing to modify its position, that it is entitled unconditionally to the ships, or to recognize that the transfer of the ships to the parties entitled thereto can be used as a basis of bargaining.

6. The Company feels further that the proposition outlined in Mission 5371 was made without authority and afterwards withdrawn

and that if such proposition was now definitely put forward by the United States it might be treated by France or the other Allies merely as furnishing an opportunity for further demands.

7. It understands that reports have been set afloat to the effect that the Company has extended credits to Germany while refusing them to France. The Company states that these reports are unfounded and that they are not giving special or preferential treatment to any country.

8. It is realized also that there is need of oil in France, Italy and Belgium. The Company in view of the above, but not as a condition of the recognition by other governments of their just rights in the tankers, are willing to state their position as regards credits for transportation of oil.

9. They will agree that after the completion of the two round trips of the tankers from United States to Germany, the 8 tankers now in commission should be used in delivering a total of 8 cargoes as follows: 2 to Belgium, 4 cargoes to France and 2 to Italy. They are unwilling to go further as it would amount to tying up of the use of the ships indefinitely for the service of the three countries mentioned.

10. As to credits,

(a) The Company is willing to extend reasonable credits considered on the merits of the propositions made.

(b) The Company feels that it cannot deal with the question of extending credits on the basis of preference for one nation as against another.

You will note in this connection telegram from Judge Payne to Mr. Polk.⁶⁵

LANSING

763.72119/8328a : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, December 13, 1919—3 p.m.

9334. For Rathbone⁶⁶ from Secretary of State and Davis.

Treasury R-106. Reference your R-110.⁶⁵

Fifth: Your paragraph 5 and Mission's 5599, December 7, 7 p.m.,⁶⁵ relative to cession of tankers on account of reparation raises a very difficult question. You are authorized to state that we agree to the

⁶⁵ Not printed.

⁶⁶ Albert Rathbone, Assistant Secretary, U. S. Treasury, in Europe to handle matters relating to reparations; unofficial representative on the Organization Committee of the Reparation Commission, after Jan. 10, 1920, the Reparation Commission.

Reparation Commission definitely passing on final question of ownership of the tankers if after ratification by the U.S. an American Representative on the Commission is duly qualified and acting. The position taken by the Standard Oil Company, in paragraph 4 Department's 3961, was taken on account of their unwillingness to make a general commitment in light of the possibility of there never being a duly qualified and acting American Representative on the Commission if we should fail to ratify the Treaty. If the tankers are now allocated to us for use pending final disposition, the Standard Oil Company has informally assured us that the ships will be turned over to the parties entitled by final decision as to ownership. We will request the Standard Oil Company to put this assurance in writing and will forward such statement to you for the proper Allied representatives. If the United States should finally refuse to ratify the Treaty, making impossible the presence on the Reparation Commission of a duly qualified and acting American Representative, the United States will agree to have the question of final ownership adjudicated in some manner agreeable to all which will guarantee an impartial tribunal and an opportunity to be heard for all interested parties. It is most important in general interests that these tankers be put in service and American beneficial interest is sufficiently predominating to entitle us to use them and object to their use by others. Presume you are conversant with Polk's negotiations on this. In paragraph 4(a) of Annex III, following Article 244 the words "as the Commission may require" were added so that the Commission would have discretion as to the liens and charges which the German Government was required to lift, on assumption that Commission, in the proper exercise of this discretion, would be governed by paragraph 20 of Annex II, requiring it, in accepting payment in specific property, to have due regard for the legal or equitable interests of nationals of Allied Powers. We believe you should take position that Reparation Commission cannot require the delivery or cession to it of the tankers without satisfactory assurance to us that any beneficial interest of Americans therein would not be impaired thereby. If Reparation Commission in accepting payment in specified properties or rights gives due regard to the legal or equitable interests of nationals of Allied and Associated Powers, the Commission cannot consistently require Germany to exercise her right of eminent domain and eliminate the beneficial interest in question without violating rights which under paragraph 20, Annex II, Commission must respect. The Wilson-Lloyd George Agreement regarding German tonnage elaborates more fully the rights of equitable ownership and while this Agreement may not be considered operative if we do not ratify the Treaty, nevertheless it is indicative of the understanding which existed and

which should prevail. Under Article 5 of the Wilson-Lloyd George Agreement, the Reparation Commission is supposed to reach a decision regarding the beneficial ownership before ships are delivered for allocation, that is, within 60 days after the coming into force of the Treaty.

LANSING

862.85/966

The British Ambassador (Geddes) to the Secretary of State

No. 898

WASHINGTON, December 19, 1919.

SIR: By instruction from Earl Curzon of Kedleston, I have the honour once again to revert to the question of the *Imperator* and the seven other German passenger ships which, after serving for the repatriation of American troops, should have been handed over to the Agents of His Britannic Majesty's Government. Hitherto the *Imperator* alone has been so handed over. The remaining seven are still unjustifiably withheld. I am therefore instructed, in view of the pressing British Empire need of ships for repatriation purposes, to call your attention once again to this matter and to urge upon you the great importance of causing these vessels to be handed over at an early date to the British authorities.

It has been intimated to me that these seven vessels will be so handed over if and when the German tank vessels are handed over to the American authorities. If such is indeed the position of the United States Government I beg once again to state the view of my Government, that the two questions, of the German tank vessels and of the German passenger ships are entirely distinct, and that they are not susceptible of being connected with each other.

I have [etc.]

(For H. M. Ambassador)

R. C. LINDSAY

862.85/966

The Acting Secretary of State to the British Ambassador (Geddes)

WASHINGTON, December 26, 1919.

EXCELLENCY: Referring to your note of December 19, 1919, in regard to former German vessels which the British Government desires to have delivered to the British authorities, I have the honor to inform you that I am now advised by the competent authorities of this Government that the steamships *Graf Waldersee*, *Zeppelin*, *Pretoria*, *Cap Finisterre*, *Mobile*, *Prinz Friederich Wilhelm*, and

Kaiserin Augusta Victoria, now in the harbor of New York, will be delivered to the representative of your Government as soon as the proper person is designated to receive them.⁶⁹

Accept [etc.]

FRANK L. POLK

362.115 St 21/104 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 9, 1920—7 p.m.

[Received January 10—4:42 a.m.]

75. R-201 for the Department and Davis from Rathbone and Dresel.

1st. Following proposals for settlement tank steamer question were advanced by Kemball-Cook⁷⁰ at conferences with us January 7th and 8th, namely:

(a) The 8 tankers now at Leith to be operated under the inter-Allied flag and under temporary registry of ownership of the British Shipping Controller who shall appoint [a] manager of the steamers from the Anglo-American Oil Company for full period until determination of final ownership.

(b) Until determination of final ownership, the tankers to be used for transportation of one or two relief cargoes to Germany from the United States unless the Reparation Commission should decide otherwise; except as so used for relief cargoes for Germany, the vessels to be used for threefold cargoes, to France, Belgium and Italy if so desired by those respective Governments up to the following gross tonnage for each country: 17,000 to France, 12,000 to Belgium, 9,000 to Italy, to extent, if any, that these tankers should not be required to transport cargoes to Germany, France, Belgium and Italy as above, then any surplus to be used by Anglo-American Oil Company, as it may desire, free from restriction.

(c) Until the coming into force of the peace treaty all these steamers will pay to the German Government the British Blue Book bare boat charter rate. All steamers used during the like period for transportation of relief cargoes to Germany will receive from Germany a rate of freight representing cost of the voyages.

(d) When the vessels are used otherwise than for German relief cargoes the current rate of freight for time being will be charged.

(e) All profits on freight after charging Blue Book bare boat charter rates payable to Germany and expenses of running and

⁶⁹ For the British claim arising out of the detention of these vessels and of the *Imperator*, see p. 648.

⁷⁰ B. A. Kemball-Cook, Director of Naval Sea Transport, British Ministry of Shipping; British representative on the Maritime Service, Reparation Commission.

allowing for Anglo-American Oil Company's fees for management, will be deposited in a London bank from time to time in joint names of British Shipping Controller and Anglo-American Oil Company and will be disposed of in accordance with general principles adopted by Reparation Commission.

(f) If Standard Oil Company makes good its claim before Reparation Commission or independent tribunal mentioned in paragraph one [i] then Allied and Associated Powers agree to satisfy value of claim by handing over and transferring tankers to Standard Oil Company under American flag.

(g) If Standard Oil Company fails to make good its claim before Reparation Commission or independent tribunal mentioned in paragraph one [i] then British Shipping Controller will transfer the ships in accordance with any allocation or decision which may be made by that Commission or tribunal.

(h) The Reparation Commission is definitely to settle final question of Standard Oil Company's claim if United States finally ratifies peace treaty and an American representative is duly qualified and acting on Commission except as otherwise provided in paragraph one [i].

(i) If United States has not on July 1st 1920 ratified peace treaty so that an American representative is qualified and acting on Commission then Standard Oil Company claim shall, at the request of United States or other interested Government, be adjudicated by an impartial tribunal to be agreed upon so that all parties interested may be properly heard.

(j) The *Wilhelm A. Riedemann* now building in Germany to be completed and to follow fate of other tankers.

(k) It is understood that foregoing arrangement in no way prejudices claim of beneficial ownership of Standard Oil Company and on the other hand in no way recognizes validity any such claim.

2d. Kemball-Cook stated that work on this proposal was commenced before surrender of steamers by Shipping Board and before his receipt of Dresel's memorandum mentioned in our R-167.⁷¹ He added that proposal was no less favorable to United States because of surrender of tankers.

3d. We understand that this proposal is substantially same as that suggested by Kemball-Cook to Piesse, Standard Oil Counsel in London, but we induced Kemball-Cook to make a number of verbal changes in proposal which we believe to be in interest of United States Government. Kemball-Cook stated that he had welcomed Piesse's intervention as he had thought matter had reached such a state that it was difficult for either side to make any further move.

⁷¹ Not printed.

He asked whether we objected to his further negotiations with Piesse and we refused to express an opinion stating that was a matter for him to decide. He finally said he would tell Piesse that he would not negotiate further with him.

4th. We desire to specifically call your attention to following points in connection with offer.

(a) Under paragraph *a* of offer registry of temporary ownership in British Shipping Board means that British flag will be flown as well as A.M.T.E. flag. Kembball-Cook asked that this point should be made particularly so that there could not be any charge of breach of faith in case offer was accepted and tankers when turned over to management of Anglo-American Oil Company flew British flag as well as A.M.T.E. flag. Understand from Kembball-Cook that in no case have ships surrendered by Germany flown A.M.T.E. flag alone except during voyage from Germany to be surrendered to representatives of Allied and Associated Governments.

(b) Regarding paragraph *b* of offer you will observe that tonnage is to be used for France, Belgium and Italy, respectively, in proportion stated after relief cargoes, if any, are sent to Germany. We do not know how important this provision is. It seems to us probable that Standard Oil Company by diverting certain ships in its fleet from French, Belgium and Italian service will be able to carry on its business substantially the same as if these particular tankers were left free from the service. That however is a matter that we are not competent to pass upon. You will note that proportion of tonnage established for these countries is the same as original allocation A.M.T.E.; you will also note that whether United States does or does not ratify treaty question of beneficial ownership can be finally determined shortly after July 1st. This question of allocation of tankers to needs of countries mentioned cannot continue for any very considerable period of time or for many voyages.

5th. You will appreciate that this arrangement proposed finally settles one question as to which we have always feared there might be difficulty, namely, whether the claim of beneficial ownership can be compensated for by money only and need not be met by the allocation of the vessel itself. That question seems to be somewhat uncertain under the treaty but is definitely settled as far as tankers are concerned in arrangement proposed and is so understood to be settled by British.

6th. Kembball-Cook stated that this arrangement was intended to be a compromise and as a compromise we could not expect that our views would be entirely adopted.

7th. In regard to this arrangement Kembball-Cook stated that he was prepared to say that French would agree to same; as to Italians and Belgians he stated he would use his best efforts to have them

accept and he believed that he would be successful in such endeavor. Italians have asked to have tankers up to 9000 tons go to management of Standard Oil Italian subsidiary. Kemball-Cook states however he thinks he was in position to make other concessions to Italy which will result in Italy's accepting arrangement proposed. Belgium has asked British to allocate to them one passenger steamer as a condition of their acceptance of this arrangement. This Kemball-Cook says he is not prepared to do but believes he can bring Belgians around.

8th. We pressed Kemball-Cook very hard to change paragraph *a* of proposal so that it would allocate tankers to American control. He finally stated that in view of experience in regard to *Imperator* and other ships the countries concerned were very unwilling to accept any assurances of United States Shipping Board or Standard Oil. We called to his attention that it might injuriously affect various British matters if a campaign was started in United States against Europe on theory that Great Britain was retaining tankers which ought to go to America. We think that this line of attack somewhat shook Kemball-Cook notwithstanding his previous statement that this offer was best that they would do. He however said that he was not authorized by his chief to consent to American management and that he doubted whether other countries concerned would consent to American flag during interim. His conversation with them in regard to proposed settlement had gone on theory embodied in offer above set forth.

9th. If it is desired we think we might be able to change date July 1st, subdivision 1 [*i.*] of offer, to some earlier date either 1st of April or 1st of a subsequent month.

10th. If we had British alone to deal with we are inclined to think that if matter was further pressed we might be able to succeed in having the ships surrendered to United States Navy instead of Shipping Board but in view of number of other countries concerned believe it would be difficult to have them reach any agreement to that effect. It is in our view most important that this tanker question should be settled as provided. It should be settled before ratifications are exchanged. This will of course be impossible if ratifications are exchanged Monday. It may be however that ratifications will not be exchanged until Wednesday. On the whole if, as we believe, there is no serious burden on Standard Oil in using these particular tankers for service to France, Italy and Belgium during limited period of time involved, we are strongly in favor of both propositions and settling this troublesome question. You will appreciate that, as pointed out in our previous cable,⁷² if

⁷² Not printed.

no arrangements are made, the Reparations Commission when constituted is bound to proceed with fulfillment of duties imposed upon it under treaty, one of which is to demand and to receive German ships and the transfers giving title thereto. While we might be able to delay this action by Reparations [Commission] for a considerable time a further complication will certainly be injected into this situation just as soon as Reparations Commission which is a semi-judicial body begins to function.

11th. We assume from what Kamball-Cook said that Standard Oil in United States has received Kamball-Cook's original proposal and has had opportunity to consider same. We deem it of utmost importance that instructions be sent us at once.

12th. Since preparing foregoing Captain Madison advises that he has again met Kamball-Cook who asked him to let us know that he feels quite confident that he can arrange that proposal will include no objections from French, Italians and Belgians and that Italians were in agreement this afternoon.

WALLACE

362.115 St 21/103 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, January 9, 1920—5 p.m.

[Received January 10—11:09 a.m.]

79. R-202 for Department and Davis.

1st. Supplementing my R-201, letter just received from Kamball-Cook in which he states as follows:

2d. Italians will, he thinks, agree but must first cable to Rome. He feels they will drop proposition regarding Italian subsidiary Standard Oil. French will agree with one reservation, namely, that first voyage of tankers should not be to Germany. Bérenger has written to Loucheur in that sense. Kamball-Cook does not think this point of greatest importance at moment unless United States Government very keen to send oil to Germany at present. If there is such feeling it may be necessary to leave that point for settlement by Supreme Council. He will interview Belgians on his return to London.

3d. Should think question as to sending oil to Germany was for Reparations Commission to decide as contemplated by present draft.

Rathbone
WALLACE

362.115 St 21/103 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, February 3, 1920—6 p.m.

273. For Rathbone.

Your urgent January 9, R-201 and 79, R-202.

After the return of the *Imperator* group of ships in compliance with the request of Great Britain, the proposal of the British representative that the tankers be placed temporarily under British registry and ownership of British Shipping Ministry, coupled with the verbal intimation that the vessels could not be temporarily allocated to the United States because this Government could not be trusted to carry out its obligations, cannot be taken otherwise than as an attempt to delay cordial and speedy settlement of a protracted controversy.

Aside from the shares of voting stock, the attempted sale of which to German interests was held void by the American Alien Property Custodian in 1918, the Standard Oil Company owns securities of the D.A.P.G., in the nature of share warrants and so-called debentures amounting to nearly seven times the value of the voting stock, and consequently has a preponderate financial interest in the German company and its assets, warranting the temporary allocation of the tankers to the United States. On the other hand no British private interest in the vessels has ever been claimed to exist. In light of the above the fact that no reason was advanced beyond lack of confidence in the agents of this Government and in the Standard Oil Company would seem strikingly to attest the want of any legitimate grounds for the suggestion of allocation to the British Shipping Ministry.

In this connection attention is called to the principle, with which the British representative is doubtless familiar, that provisional allocation should be made to conform, as far as possible, to the *prima facie* case which each nation can present for the ultimate final allocation. It was on this principle that Great Britain established to the satisfaction of this Government a right as against other Allied Powers to a settlement in its favor of the controversy relative to the disposition of the *Imperator* group of ships. This same principle would seem clearly to entitle the United States to a provisional allocation to it of the tankers. The sense of the British proposal would seem to recognize the application of this principle to the tankers, were it not that an agency of this Government could not be trusted to abide by the final decision of allocation.

You may answer the Kemball-Cook proposal somewhat in the sense of the foregoing, and add that:

First: This Government cannot agree to the provisional allocation of the D.A.P.G. tankers to other than the United States, with

the understanding, however, that the vessels will fly the AMTE flag together with U.S. flag.

Second: This Government will consent to the use of the vessels as outlined in paragraph B of your cablegram, with the understanding that it may use any surplus tonnage free from restriction.

Third: Irrespective of the question as to whether there may be any obligation to pay charter hire to the German Government, it is agreed that all proceeds arising from the use of the vessels, less the cost of operation and fees for management, will be credited, or, if so desired, will be deposited as they accrue with the Reparation Commission, to be held in trust pending final disposal with the interest accrued, in accordance with the decision of the disposition of the tankers as provided below. If it is decided that charter hire is due Germany, charter hire on British bare boat charter rates, less operating costs, shall be refunded to the United States by the Reparations Commission and credited by it to Germany for purchase of food in accordance with agreements pursuant to Brussels Convention.

Fourth: This Government will agree that if any of the vessels are used for relief cargoes to Germany, freight rates will be charged representing the cost of the voyages, but when vessels are used otherwise than for German relief the current rate of freight will be charged.

Fifth: This Government will agree to leave final determination to the Reparation Commission and abide by its decision provided the treaty is ratified by the United States by July 1st, 1920, and the United States is officially represented on the Commission when and if this question comes before it for determination, or if Treaty is not so ratified and the United States duly represented, to a special tribunal to be mutually agreed upon, it being understood and agreed that the determination shall in either case be governed by the rule embodied in the British proposal, in Paragraph F, and Clause 5th of your cable which is understood to mean that on proof by the Standard of its preponderant financial interest in the D.A.P.G. by whatever name such interest may be called, whether described as beneficial ownership or as value, and whether based on ownership of shares, of share warrants, or of debentures, the tankers shall remain with the Standard Company finally and under the American flag.

Sixth. The *Wilhelm A. Riedemann* now building in Germany to be completed and follow the fate of the other tankers.

For your information Standard Oil and Shipping Board have agreed to foregoing proposal. Davis concurs.

LANSING

362.115 St 21/125 : Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, February 27, 1920—7 p.m.

438. Your urgent 541, February 23.⁷³

For Rathbone. Your R-297, R-302, R-351 for Department and Davis.⁷⁴ As outlined in Department's 273, February 3, this Government can not agree to temporary allocation of tankers to other than United States. You may so inform Kemball-Cook and submit, on behalf of this Government, the following counter-proposal to his as outlined in your R-201 of January 9:

"(a) The 8 D.A.P.G. tankers now at Leith to be provisionally allocated to the United States Government, and temporarily placed under American registry with understanding that they shall fly A.M.T.E. flag together with United States flag.

(b) Until determination of question of final disposition tankers to be used for transporting cargoes to France, Belgium and Italy, if so desired by the respective Governments, up to the following gross tonnage for each country: 17,000 to France, 12,000 to Belgium, 9,000 to Italy; tankers may also be used for transportation of one or two relief cargoes to Germany from United States, unless Reparations Commission should decide otherwise. To extent, if any, that these tankers should not be required to transport cargoes to Germany, France, Belgium and Italy as above, the United States shall be free to use them without restriction.

(c) If any of tankers are used for transportation of relief cargoes to Germany, freight rates representing the cost of the voyages shall be paid by Germany.

(d) When the vessels are used otherwise than for German relief cargoes, the current rate of freight for time being will be charged.

(e) Irrespective of the question as to whether there may be any obligation now to pay charter hire to the German Government, it is agreed that all proceeds arising from the use of vessels, less the cost of operation and fees for management will be credited, or if so desired, deposited as they accrue with the Reparations Commission, to be held in trust pending final disposal with interest accrued in accordance with the decision as to the disposition of the tankers as provided for below. If, however, it is decided that charter hire is due Germany, charter hire on British blue book bare boat rates less operating costs shall be refunded to the United States by the Reparations Commission, and credited by it to Germany for the purchase of food in compliance with agreements pursuant to Brussels Convention.

(f) If Standard Oil Company makes good its claim before Reparations Commission or independent tribunal mentioned in paragraph i, then Allied and Associated Powers agree to satisfy claim

⁷³ Not printed.

⁷⁴ None printed.

by handing over and transferring tankers to Standard Oil Company under American flag in tonnage bearing to the entire tonnage of the tankers a ratio not less than that which the par value of the D.A.P.G. securities proved to belong to the Standard Oil Company bears to the par value of all D.A.P.G. securities.

(g) If the Standard Oil Company fails to make good its claim before Reparations Commission or independent tribunal mentioned in paragraph *i* then the United States will transfer the ships in accordance with any allocation or decision which may be made by that Commission or tribunal.

(h) The Reparations Commission is to settle final question of Standard Oil Company's claim if United States finally ratifies Peace Treaty and an American representative is duly qualified and acting on commission, except as otherwise provided in paragraph *i*.

(i) If United States has not on July 1, 1920, ratified Peace Treaty and an American representative is not qualified and acting on commission then Standard Oil Company's claim shall, at request of United States or other interested Government, be adjudicated by an impartial tribunal to be agreed upon between the U.S. and other Governments concerned so that all parties interested may be properly heard.

(j) The *Wilhelm A. Riedemann* now building in Germany to be completed and to follow fate of other tankers.

(k) It is understood that temporary allocation will in no way prejudice claim of beneficial ownership of Standard Oil Company and, on other hand, will in no way recognize validity of any such claim."

For your information, it will not be possible to place tankers under the United States Navy as suggested by you. If provisionally allocated tankers will be placed in charge of Shipping Board, and probably under management of Standard Oil Company. You may, if inquiry is made, so inform [Kemball]-Cook. The Department, however, considers it preferable not to definitely make this a term of the agreement.

With reference to above modification of paragraph *f*, Standard Oil Company states that the ratio whether determined by financial or market value or by par value would be substantially the same, since all three classes of the securities received the same return, the stock warrants and the so-called debentures being by their terms entitled to returns at the same rate as the dividends on the shares, and all returns have been declared and paid accordingly.

In view of this Government's willingness to agree to carry cargoes, as outlined in paragraph *b*, it is felt that the agreement should not contain any further restrictions as to use of vessels during provisional allocation, and Department is therefore not disposed to agree to French and Italian reservations, which would limit the discretion of this Government as to what oil products shall be transported on

the vessels. No attempt has therefore been made to modify proposal to accord with their position. This Government cannot of course assume any responsibility other than that of fair dealing in respect to the oil products to be delivered.

POLK

362.115 St 21/125: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, March 13, 1920—8 p.m.

529. For Wallace and Rathbone. Your 684, March 11, R-108 [sic].⁷⁵

According to alleged special news cable from Paris, March 8, printed in *Washington Post*, French Government has lodged vigorous protest with Reparations Commission against further detention in England of tankers and "demands that the Reparations Commission request a reply from Washington whether the United States will forego her objections within 15 days, in default of which the Reparations Commission will be asked to turn these ships over to France as a part of the French reparations for losses of French tonnage during the war."

For Wallace:

Department is not informed whether above was from inspired sources or, if so, whether it was issued without knowledge of proposal contained in Department's 438. Should the matter come up for discussion before Council of Ambassadors, and a claim for tankers be made by France or other Government, you may call attention to the fact that aside from the voting stock, the attempted sale of which to German interests was held void by the American Alien Property Custodian in 1918, the Standard Oil Company, in addition, has a financial interest in the German Company amounting to over seven-eighths of the value of its total assets. You may also call attention to this Government's proposal in its 438, and particularly to paragraph (f) and state that in view of practically complete American interests in tankers, this proposal represents the utmost concession that the United States is prepared to make. You may add that this Government can not consent that legal or equitable interests of its citizens can be used to indemnify another power, or its citizens, for losses inflicted by Germany.

POLK

⁷⁵ Not printed.

362.115 St 21/128: Telegram

The Ambassador in France (Wallace) to the Acting Secretary of State

PARIS, March 15, 1920—8 p. m.

[Received 8:25 p.m.]

712. R-422 for Department and Davis. Reference your number 529, March 13, 8 p.m.

1st. No protest made by the French Government regarding tankers is before the Reparation Commission except the comments of the French and Italian Governments referred to in our R-342 of February 19th, our R-351 of February 23rd and our R-408 of March 11th.⁷⁶ These comments came by letters from the French and Italian Governments to the Reparation Commission which were forwarded to the Maritime Service for consideration in connection with the case. They were received and considered by the Maritime Service before our counterproposal given in your 438⁷⁷ was received and put before that body. These comments stated [the] attitude of the French Government as not being willing for tankers to carry Standard Oil Company products exclusively but as agreeing that all products carried shall be of American origin. The Italian attitude was that products carried should not be exclusively of American origin. Upon consideration by Maritime Service the Italians decided to accept the French attitude and the question was held in abeyance awaiting the arrival of our counterproposal.

2d. Upon receipt of our counterproposal tankers proposition was considered by Maritime Service on Monday, March 8th, with result as given in our R-408. At that meeting it was suggested that paragraph *b* might be changed to provide for tankers [""] to be used if so desired by the respective Governments for transporting such cargoes from the United States to France, Belgium, and Italy as are named by those Governments upon these conditions." No possibility of any change was admitted on our part and the question was adjourned to allow the French and Italian delegates to communicate our counter proposal and to refer to their Governments for instructions. No further comment or proposals have been received.

3d. Any proposed action or protest with regard to tankers will undoubtedly be made through Reparation Commission. Vessels are being held by and can only be disposed of in accordance with instructions from that body. Rathbone.

WALLACE

⁷⁶ None printed.

⁷⁷ *Ante*, p. 586.

362.115 St 21/149: Telegram

*The Acting Secretary of State to the Ambassador in France
(Wallace)*

WASHINGTON, May 14, 1920—6 p.m.

934. Your 1071, April 29th.⁷⁷

For Boyden.⁷⁸ Your B-56⁷⁷ badly garbled. Great delay in deciphering.

First: In general it is important to keep in mind that original negotiations regarding temporary allocation tankers were started in Council of Heads of Delegations and that present discussion is based on independent proposal of Kemball-Cook through diplomatic negotiations. This Government has at no time consented to jurisdiction of Reparation Commission to decide this preliminary question of temporary allocation. We are willing to recognize authority of allied representatives on Reparation Commission to act as agency for negotiation with United States on this preliminary question, provided expeditious settlement can be reached. United States, however, cannot be bound by any decision of Reparation Commission as to American rights without consent of this Government.

Second: Decision as to formation of independent tribunal would open discussion of numerous details which are not necessary for decision as to temporary allocation and would only tend to further delay. Department, at appropriate time, is disposed to give favorable consideration to suggestion that tribunal consist of one member from Reparation Commission, one from United States and one neutral. Department cannot agree to Bradbury's⁷⁹ suggested change outlined in your first paragraph.

Third: Our first explains why Department would be unwilling to agree to substitution of Reparation Commission for Government[s] in paragraph I (eye).

Fourth: Department would agree to substitution in paragraph I (eye) (not paragraph one as stated by you) of the wording "independent" for "impartial" if you consider this necessary. In regard to additional language Bradbury proposes to insert, we believe question of authority under which tribunal should act is a matter for later discussion and probably detailed protocol.

Fifth: (Your Fourth): Department not disposed to agree to Poincaré's suggestion that further voyages be left open for discussion. This question should be definitely settled now. Use your authority for allowing three voyages if necessary.

⁷⁷ Not printed.

⁷⁸ Roland W. Boyden, assumed duties, Apr. 1, 1920, as American unofficial representative on the Reparation Commission, succeeding Albert Rathbone.

⁷⁹ Sir John Bradbury, British representative on the Reparation Commission.

Sixth: Regarding paragraphs *f* and *g* of proposal. It is probable that our views are not materially at variance with Bradbury's. The negotiations have been conducted on a basis of proof of beneficial ownership. To the extent S[tandard] O[il] might be awarded ships on proof of this beneficial ownership it should not be expected to surrender securities to R[eparation] C[ommission] since credit probably would not be due Germany in such case. Besides, a transfer of securities would result in transfer to non-American hands of the D.A.P.G., an important agency of American commerce and industry in Germany. Bradbury apparently willingly agreed with above view if beneficial ownership proved by S.O. establishing ownership of all securities. It seems to us that it is also entirely possible that beneficial ownership might be proved to exist even though it was found that all securities were not owned by S.O. Under paragraph *f* of Department's proposal right to tankers was contingent on proof by S.O. of claim to beneficial ownership. Coupled with such condition the proportional basis of satisfaction provided for, amounts practically to an agreement on our part to limit the application of the proven right to the vessels, to only such proportion as established by the ownership of securities. The advantage therein for us is that such a principle might solve certain practical difficulties in reaching a solution. However, if on adjudication tribunal does not decide beneficial ownership actually proved, it would seem proper, and many equitable considerations would support such conclusion, that tankers should be surrendered to value of award. In that case we believe credit to Germany might be necessary and R.C. should be subrogated to that extent to right of indemnity, if any, of S.O. against Germany, but not to any right that S.O. might have against A[lien] P[roperty] C[ustodian] property. Any claim that S.O. might have to such property would depend not only upon treaty but upon Congressional action. Such right may be limited to American citizens and not transferable and an assignment might be contrary to government policy. Be careful not to suggest in any way or admit right of subrogation to claim against A.P.C. property.

Seventh: We would be willing to substitute the following for paragraphs *f* and *g* of proposal

"[*f*.] As soon as the Reparations Commission or the Independent Tribunal mentioned in paragraph (eye) *i* has declared its decision upon the claim of the Standard Oil Company, United States will transfer tankers in accordance with such decision, it being agreed, however, that if Standard Oil Company makes good its claim of beneficial ownership, the tankers shall be awarded to that Company and transferred to the American flag in tonnage bearing to the entire tonnage in question a ratio not less than that which the value of D.A.P.G. securities proved to belong to the Standard Oil Company

bears to the value of all D.A.P.G. securities, the same method of valuation to be used in each case.

g. However, if S.O. fails to make good its claim to beneficial ownership but financial reimbursement is found due, S.O. Company shall be entitled to the liquidation of such award by the transfer of tankers to a value equal to the sum due, the tankers to be valued by the Reparation Commission or independent tribunal and the particular tanker or tankers to be transferred, to be selected by the Standard Oil Company and accepted by that company at the valuation aforesaid; all provided that the S.O. shall agree to perfect such equitable arrangements as shall be necessary in connection with effecting proper credit to Germany for the value of such tankers if transferred to Reparations Commission by Germany as part of reparation payment."

Eighth: Department feels that proposal with foregoing change should be accepted, and thus temporary allocation disposed of. It is therefore not necessary at this time to consider suggestion in your paragraph 14 and in your B-57⁷⁸ for another arrangement for temporary allocation. Consideration of this proposal would also necessarily involve negotiations, and if a new arrangement such as that contemplated were entered into, the incentive for early adjustment of the matter might be removed if in the meantime cargoes were being carried for the Allied Governments.

Ninth: Proposition outlined in paragraph 5th your B-77⁷⁸ involves new negotiations. Furthermore, if beneficial ownership claim of S.O. is sustained obviously United States should not have to account to R.C. for value of tankers. Department trusts that you will be able to obtain an agreement to present proposal.

Tenth: Your amendments of paragraphs *a* and *b*, outlined in your B-40⁷⁸ and B-51,⁷⁸ acceptable to Department.

Eleventh: Department trusts that you will be able to obtain acceptance of its paragraph *d* as outlined in its 729 of March 29 [April 10].⁷⁸ This is quite a concession, as the rate established by the Shipping Board for its own tankers is substantially less than the rate current generally.

POLK

362.115 St 21/151 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, May 19, 1920—4 p.m.

[Received 10:28 p.m.]

1172. B-92 for Department and Davis.

Your 934, May 14. My paragraph numbers correspond with yours.

⁷⁸ Not printed.

1st. Obvious that United States assents to nothing until all details arranged. Therefore, your first paragraph suggests fear that my personal opinion may lead me to deviate from instructions. I should naturally be careful about that, but hinting does no harm. With this assurance, I will continue to express opinions and offer advice freely. Hard to stop habit of lifetime.

2d. Appropriateness of time depends chiefly on whether you want to discuss subject now. My suggestion, as to method of forming Independent Tribunal, did not contemplate delay until method decided. Proposal suggesting a quick method merely to show Poincaré and others than Poincaré's fears of long delay in arranging Tribunal were unfounded. Can you identify your suggestion for same on reconsideration without committing yourself.

3d. Do you not think Reparation Commission in making agreement is merely acting as agent of governments. Same theory applies to proposed substitution Reparations Commission for governments paragraph eye. Commission called by Tribunal would act merely as agent and you would have advantage of dealing with one party instead of several without any surrender of principle. The original language "other governments concerned" is very indefinite. Does it mean all powers who ratify or all powers who under the treaty are entitled to share in distribution of ships.

4th. Shall probably substitute "independent" [for] "impartial". As to remaining, if Reparation Commission acts as agent then Tribunal automatically gets all authority governments can delegate but the really important thing is to make sure Tribunal has authority from Reparations Commission not merely in its capacity as agent but in its capacity as Commission under the treaty. Except for treaty these tankers remain property of German clique. Government[s] have no authority to take tankers away from German clique or to create tribunal to dispose of tankers. If United States is [to] get tankers you must start with the theory that tankers have been taken away from Germany by the treaty. That assumption puts tankers in jurisdiction of Reparations Commission not as agent for government[s] outside of treaty but as commission under the terms of the treaty. Starting with this assumption tankers [can be transferred to] Standard Oil Company only by decision of Reparations Commission or by decision of Tribunal acting under delegated junction of authority of Commission. The point is that in the absence of amendment to treaty which requires legislative assent the proposed agreement for [decision] by a tribunal rests legally on delegated power by Reparations Commission.

5th. Expect no trouble about two voyages though still possibility may have to concede three.

Paragraph 6th and 7th. Will discuss these later in this message.

8th. Bradbury is not likely to accept proposal. Original delegates would probably accept if subject not discussed but discussion likely to arouse same [some?] doubts in their minds. Their necessities may induce them to ignore these difficulties but Bradbury not subject to same pressure and not likely to yield to their persuasion on legal point which he regards as precedent of great importance. Pressure of necessity may help gain our point in this particular case but I believe it far wiser policy to abandon this advantage for the sake of getting tankers immediately into service leaving our case to stand or fall on its merits.

9th. Submitted Cook's suggestion my B-77⁸⁰ merely for your information. Did not seem practicable. I do not agree with your conclusion that proof of beneficial ownership necessarily eliminates accounting. If result of beneficial ownership is to return tankers to Germany then credit necessarily eliminated otherwise seems to me nothing more than vague possibility.

Paragraphs 10th and 11th. Need not reply except to point out that paragraph *d* as outlined your 729 March 29 [April 10],⁸⁰ was accepted by Commission though future discussions may open up anything.

12th. Returning to your paragraphs 6 and 7. Your cable arrived late Monday. Saw Bradbury Tuesday. He made objection as before. He has no objection to Standard making any claim of any kind before Tribunal. His objection is to instructing Tribunal that proposal [*proven?*] ownership of securities shall necessarily lead to any particular result. He wishes whole matter to be determined by Tribunal. If your language "claim of beneficial ownership" means beneficial ownership in tankers themselves he would accept your idea. It would then be possible for Tribunal to consider whether ownership of securities as proved did or did not constitute beneficial ownership of the tankers but if your language means, as he thinks, that proposal [*proven?*] ownership of securities necessarily determines the question of beneficial ownership then he is unwilling to accept your suggestion.

13th. On theory that this may be possible solution have continued discussion with Bradbury. He would accept following language:

"*f* As soon as Reparation Commission or the Independent Tribunal mentioned in paragraph *i* (eye) has declared its decision upon the claim of the Standard Oil Company, United States will transfer tankers in accordance with the above named decision, it being agreed however that if Standard Oil Company makes good its claim to beneficial [ownership] of all or any of the tankers in question then such tankers shall by the term[s] of the decision be awarded to that company and transferred to the United States flag.

⁸⁰ Not printed.

g. If Standard Oil Company fails to make good its claim to beneficial ownership of tankers but is found to be entitled to financial reimbursement then Standard Oil Company shall be entitled to liquidation of the award by transfer of tankers to a value equal to the award, the tankers to be valued by the Reparation Commission or Independent Tribunal in order to constitute [its] award and the particular tanker or tankers to be selected by the Standard Oil Company and accepted by the Company on the valuation aforesaid. Any award of tankers under either paragraphs [*f*] or *g* shall be conditioned upon the Standard Oil Company's effecting such equitable arrangements as may be prescribed by the Reparations Commission or such Independent Tribunal, in view of the credit in reparation, if any, which the Reparation Commission may be required to give to Germany in respect to the tankers transferred to the Standard Oil Company for the purpose of protecting the Reparations Commission against or providing the Commission with an equivalent for such credit if any.["]]

Note: Change[d] last part of your language which is intended merely to make sure that in any case where Tribunal is of opinion that Commission is required to credit Germany it shall not be compelled to transfer tankers without proper provision under direction of Tribunal for meeting that credit. The foregoing language also omits ratio between securities and [tonnage] which is objectionable to Bradbury because seems to interpret what beneficial ownership means whereas Bradbury insists that Tribunal must make its own interpretation.

14th. If something on above lines cannot be agreed Bradbury sees nothing to do except refer whole subject to Governments to work out solution as they and you agree. I should make reserve on this point but see no other solution though it is misnomer to call such reference a solution.

15th. I have shown paragraphs 12th, 13th and 14th this message to Bradbury to-day, Wednesday, and they meet his approval.

16th. Will add that provided Tribunal is satisfied that ownership of securities proved constitutes beneficial ownership then seems inevitable that translation of such ownership into the tankers themselves will practically follow proportional lines. Boyden.

WALLACE

362.115 St 21/151 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, May 26, 1920—1 p.m.

1006. For Boyden: B-39.

Your B-92.

Your second. Last sentence garbled, but it would seem wise to assure your colleagues that we have no desire to delay agreement on tribunal, and if necessary let them know that both the Standard

Oil Company and the Department will be willing favorably to consider tribunal made up of one man appointed by the Reparation Commission, one by the United States and one by a neutral party or by agreement between the United States and R[eparation] C[ommission]; or will consider some other suggestion along similar lines.

Your third. Department believes "Governments concerned" to mean United States and Allied Powers who are entitled to pass upon the disposition of enemy shipping under Paragraph 2 Annex II. Department would be willing to have the R.C. act as agent for the other Governments concerned if they so desire, but does not consider it advisable to change wording of paragraph Eye.

Your fourth. We feel that matter of powers to be delegated tribunal is one for a further protocol, but for your information without deciding on advisability of tribunal being given full executive powers of R.C. under treaty, we do not feel such delegation would be necessary. Tribunal might merely exercise the arbitral function of deciding whether tankers are such property as R.C. can accept or require from Germany in payment of its reparation debt, or whether S[tandard] O[il] is entitled to financial compensation from R.C. for loss sustained by it because of loss by D.A.P.G. of its assets. In case of negative decision on the first issue on ground of proven beneficial ownership, all that may be necessary is for R.C. to execute decision or perhaps to affirm decision of tribunal and agree to keep hands off tankers or give some sort of quit claim, leaving to United States the possession of the vessels. The matter of title would then be arranged between S.O. and D.A.P.G. The S.O. Co. have stated that they would be satisfied with the latter result. If found desirable paragraph "F" could be amended so as to expressly give Commission or tribunal sufficiently broad authority to permit title to tankers to remain in D.A.P.G. As we understand German Government has not yet expropriated title, we see no necessity for credit from the R.C. to the German Government, and no action by the R.C. would be necessary other than confirming decision of tribunal and perhaps executing some further quit claim. In the second case, if beneficial ownership were not proven but tribunal finds financial reimbursement due, the R.C. would confirm decision and pay in tankers as per agreement. In this event title should come through the German Government and the R.C. but it would be perfectly possible to consider the title as coming to the R.C. subject to an equitable obligation of settlement for American interest. Credit therefore would be due the German Government only to the amount of the value of the tankers less the reimbursement found due. This would be a just and practical solution of the credit problem if the S.O. makes arrangement for the D.A.P.G. to give the German Govern-

ment and/or the Reparation Commission a release of any claims against the German Government or the R.C. up to amount found due and paid to S.O. by way of settlement. It may possibly be found necessary to give the tribunal certain further powers or executive functions but it would seem wiser in general and would perhaps avoid legal difficulties if tribunal should not be held to function particularly as executive under the treaty and be subject to specific regulations in regard to procedure which the treaty provided for the R.C. The tribunal should be free to decide on principles of international law giving proper effect to the provisions of the treaty which are applicable. The R.C. acting as such should ratify the agreement so that it may be bound to execute the decisions of the tribunal.

We will reserve comment on your eighth until we see what eventuates from this cable.

Your thirteenth. We have obtained consent of the S.O. to paragraphs "F" and "G" as stated, as proposed by Bradbury, with the following change which we approve to be inserted after the words "selected by the Standard Oil Company and accepted by that company on the valuation aforesaid" (change agreed upon) "any award of tankers under either paragraphs "F" or "G" shall, if the tribunal finds that the necessity therefor exists, be conditioned upon the Standard Oil Company obtaining and delivering to the German Government or the Reparation Commission a release by the D.A.P.G. of any claims against the German Government and/or Reparation Commission on account of such award".

It is believed that such arrangement would solve the credit difficulty as it would make it in either case proper for the Reparation Commission to exclude from its credit to Germany the value of the award made. Unless one or more of the Allied Powers desires to obtain control of the securities of the D.A.P.G. we see no reason why, with the concessions which we have now proposed, you should be unable to obtain their adherence and close the matter up.

B-94 received.⁸¹

COLBY

362.115 St 21/168

The Ambassador in France (Wallace) to the Secretary of State
No. 1677

PARIS, June 11, 1920.

[Received June 21.]

SIR: With reference to my telegram No. 1257 June 7, 6 p.m.⁸¹ transmitting the full text of the agreement signed that day by Mr. Boyden and the other representatives in regard to the eight D.A.P.G.

⁸¹ Not printed.

tankers to which beneficial ownership is claimed by the Standard Oil Company, I have the honor to forward herewith the original signed arrangement, in compliance with the Department's instruction to Mr. Boyden as set forth in his letter to me under date of the 9th instant, copy of which is likewise enclosed.⁶³

I have [etc.]

HUGH C. WALLACE

[Enclosure]

Agreement, June 7, 1920, between the Reparation Commission and the United States Government in Regard to Tankers of the Deutsch-Amerikanische Petroleum Gesellschaft

PARAGRAPH A.—The six D.A.P.G. Tankers now at Leith and the two D.A.P.G. Tankers at Burnt Island to be provisionally allocated to the United States Government and temporarily placed under American Registry, with the understanding that they shall fly the Inter-Allied flag together with the United States flag.

PARAGRAPH B.—If desired by the Governments of France, Belgium and Italy the eight tankers may be used until the question of final disposition has been determined, for transporting such cargoes as are specified by those Governments from the United States as follows:

For transporting 2 cargoes each to France, tankers of approximately 17,000 gross tons;

For transporting 2 cargoes each to Italy, tankers of approximately 9,000 gross tons;

For transporting 2 cargoes each to Belgium, tankers of approximately 12,000 gross tons.

France, Belgium and Italy respectively undertake, at the termination of the use of any of said vessels for conveyance of cargoes as above provided, to pay the reasonable expense, including demurrage if any, of restoring the vessels to such condition of cleanliness as they were at the commencement of the first voyage, and, if such cleaning be necessary for the purpose of any return voyage, agree to pay the same expense. Should the Reparation Commission so decide, tankers may also transport one or two relief cargoes from the United States to Germany. The United States is to be free to employ these tankers unrestrictedly to extent that they are not needed for the transportation of cargoes to France, Italy, Belgium or Germany, as above specified.

PARAGRAPH C.—If any of tankers are used for transportation of relief cargoes to Germany, freight rates to be paid by Germany shall be fixed by the Reparation Commission.

⁶³ Letter of June 9 not printed.

PARAGRAPH D.—The rate of freight shall be fixed by the Reparation Commission, when vessels are used otherwise than for German relief cargoes, provided the rate fixed shall in no instance be less than the time charter rate established by the United States Shipping Board on its own tankers and current at the time of the voyage.

PARAGRAPH E.—Irrespective of the question as to whether there may be any obligation now to pay charter hire to the German Government, it is agreed that all proceeds arising from the use of vessels less the cost of operation and fees for management will be credited, or, if so desired, deposited as they accrue with the Reparation Commission, to be held in trust pending a final disposal with interest accrued in accordance with the decision as to the disposition of the tankers as provided for below. If, however, it is decided that the charter hire is due Germany, charter hire on British bare boat rates less operating costs shall be refunded to the United States by the Reparation Commission and credited by it to Germany for the purchase of food in compliance with agreements pursuant to Brussels Convention.

PARAGRAPH F.—As soon as the Reparation Commission or Independent Tribunal mentioned in paragraph "I" has declared its decision upon the claim of the Standard Oil Company, the United States will transfer tankers in accordance with such decision, it being agreed, however, that if Standard Oil Company makes good its claim to beneficial ownership of all or any of the tankers in question then such tankers shall by the terms of the decision be awarded to that company and transferred to the United States flag.

PARAGRAPH G.—If Standard Oil Company fails to make good its claim to beneficial ownership of tankers but is found to be entitled to financial reimbursement, then Standard Oil Company shall be entitled to liquidation of the award by transfer of tankers to a value equal to the award, the tankers to be valued by the Reparation Commission or independent tribunal in its award, and the particular tanker or tankers to be selected by the Standard Oil Company and accepted by the Company at the valuation aforesaid. Any award of tankers, other than to the D.A.P.G. under either Paragraph F or Paragraph G, shall be conditional upon compliance by the Standard Oil Company with any order for repayment to Germany, or payment to the Reparation Commission, of the compensation, if any, paid by Germany to the D.A.P.G. or other owners in respect of the cession of the tankers covered by the award, or with any such order for obtaining and delivering to Germany or the Reparation Commission, a release, or assignment, or agreement of indemnity, covering claims against Germany or the Reparation Commission which may arise out of such cession, provided that the Reparation Commission or independent tribunal shall decide such order to be necessary for the

purpose of protecting or indemnifying the Reparation Commission or Germany against claims arising out of the cession of the tankers covered by the award.

PARAGRAPH H.—The Reparation Commission is to settle question of Standard Oil Company's claim if the United States finally ratifies the Peace Treaty and an American representative is duly qualified and acting on the Commission except as otherwise provided in Paragraph I.

PARAGRAPH I.—If the United States has not on July 1, 1920, ratified the Peace Treaty and an American representative is not qualified and acting on the Commission, then the Standard Oil Company's claim shall, at the request of the United States or other interested Governments, be adjudicated by an independent tribunal to be agreed upon between the United States and the several Governments concerned so that all parties interested may be properly heard. The Reparation Commission and the United States pledge themselves to use their best efforts to arrange this tribunal without delay.

PARAGRAPH J.—The *Wilhelm A. Riedemann* now building in Germany to be completed and to follow fate of other tankers.

PARAGRAPH K.—It is understood that temporary allocation will in no way prejudice claim of beneficial ownership of Standard Oil Company and on the other hand will in no way recognize validity of any such claim.

For the Reparation Commission

DUBOIS

JOHN BRADBURY

PARIS, FRANCE, *June 7th, 1920.*

For the United States Government

BOYDEN

PARIS, FRANCE, *June 7th, 1920*

GREAT BRITAIN

RELEASE OF AMERICAN GOODS SEIZED BY GREAT BRITAIN DURING THE WAR

Preliminary Negotiations between the Consul General at London and the British Procurator General—American Proposals of December 13, 1917, July 12, 1918, and August 28, 1919—British Consent to Release in "Proper" Cases—American Reservations Regarding the Order in Council of March 11, 1915—Report of the Secretary of State to the President, March 3, 1921

763.72112/3729a : Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, May 29, 1917—5 p.m.

Please compile and cable list of cases pending in Prize Court involving American interests and add your opinion as to how they may now be equitably disposed of in view of the fact that the United States has entered the war.

LANSING

763.72112/3729a Suppl. : Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, June 14, 1917—5 p.m.

Department's May 29, 5 p.m., Prize Court cases.

Include in report cases in hands of Procurator-General under Order in Council March 11, 1915 which have not been presented to Prize Court.¹ Hasten reply as much as possible.

LANSING

763.72112/3896

The Consul General at London (Skinner) to the Secretary of State

No. 4321

LONDON, June 15, 1917.

[Received June 28.]

SIR: In reference to the Department's telegram in cipher of May 29th directing me to forward a list of cases pending in the Prize Court, and to suggest how they might be disposed of satisfactorily in view of the altered political situation, I have the honor to state

¹ For order in council of Mar. 11, 1915, see *Foreign Relations*, 1915, supp., p. 144.

that I have to-day forwarded a partial reply.² The Procurator General has promised to give me a practically complete list of pending cases, a good many of which are being dealt with by London law firms, and of which I have little or no knowledge. The Crown's legal advisers are not particularly enthusiastic over the suggestion of a general settlement of the cases upon which they have put a good deal of work for, perhaps, comprehensible reasons, but I strongly suspect that if the matter becomes one of formal negotiation we shall have no difficulty in coming to some kind of understanding.

I have suggested in my reply, which has now gone forward, that all westbound goods owned by American firms and held under the Order in Council of March 11, 1915, be released, and that in the large number of cases in which such goods already have been released against deposits, the deposits be returned. I have further suggested that eastbound post parcels should be returned to senders in the United States unless enemy ownership is already admitted, and that if there exist cases of doubtful ownership such eastbound parcels shall be returned to the Department of State to be dealt with in that Department at its discretion.

As to Prize Court cases which have been prepared and are actually ready for trial, I venture to propose the appointment of a committee of three upon which there should be at least one American to decide whether the proceedings shall continue or be quashed, and further to deal with any other questions arising out of Prize Court proceedings under any head.

From an informal conversation at the Procurator General's office I gather that his Department will object to any general scheme of effecting releases unless each release shall carry with it a guarantee of immunity from any claim for damages.

I have [etc.]

ROBERT P. SKINNER

300.115/13263

The Consul General at London (Skinner) to the Secretary of State

No. 4753

LONDON, September 11, 1917.

[Received September 28.]

SIR: I have the honor, with further reference to my dispatch No. 4443, dated July 10, 1917, File No. 350,³ on the subject of the release of certain parcels of needles upon deposit of the invoice value of the merchandise in the British Prize Court, to report that this office has had some correspondence with H.M. Procurator General on the

² The partial reply was forwarded in a telegram dated June 14 (file no. 763.72112/3800).

³ Not printed.

subject of certain conditions sought to be imposed upon such releases.

The question first arose in a letter from H.M. Procurator General dated June 12, 1917, reading in part as follows:—

“In those cases in which the packets in the s.s. *United States* have already been dealt with by Order of the Prize Court, it would appear that the most convenient way of meeting the requirements of the American firms concerned would be to arrange with the Admiralty Marshal for the usual conditions against re-export to be waived, and to leave the American firms concerned to purchase the goods when offered for sale under the Order of the Court. In other cases in which the decree of the Court has already been made, it would be a condition of release that the invoice value of the goods (converted into sterling at the pre-war rate of exchange) should be deposited in the Prize Court in full settlement of all claims.”

The following communication dated August 24, on the same subject, was next received by this office:—

“I am directed by H.M. Procurator General to refer to the letters from this Department of the 12th and 26th June, and to ask whether from the former letter you have understood that in cases in which needles are released upon the deposit of the Invoice value in Court, such an arrangement is to be regarded as in final settlement of all claims by the American firms making the claim.

“This condition has not been specifically stated in every letter, in which you have been informed that the arrangement is practicable, although it was intended that it should be applied, and to avoid any misunderstanding he will be glad to know what view you have taken with regard to this point.”

Under date of August 30, 1917, I replied as follows:—

“I have the honor to acknowledge the receipt of your letter of August 27 [24th], in which you inquire whether, according to my understanding, in cases in which needles are released upon deposit of the invoice value in Court the arrangement is to be regarded as in final settlement of all claims by the American consignee and to state in reply that the answer is in the negative.

“Permit me to draw your attention again to the note of the British Government dated April 24, 1916,⁴ setting forth that they are prepared to concede that waivers of the right to put forward claims for compensation, when made a condition of release, would be a hardship, and further, that no attempt will be made to enforce such as have already been given.”

H.M. Procurator General, under date of September 1st. replied as follows:—

“I am directed by H.M. Procurator General to acknowledge receipt of your letter of the 30th ult., and to say that he does not agree that the arrangements which have been made to facilitate the release

⁴ *Foreign Relations*, 1916, supp., p. 368.

for transmission to the United States of America of parcels of Needles detained from the mails, come within the terms of the Note from H.M. Government of the 24th April 1916, to which you called attention, inasmuch as in all these cases the Crown is clearly entitled to proceed in the Prize Court and obtain an order for sale and detention of the proceeds.

"The present arrangements are a special concession on the part of H.M. Government to meet what is understood to be a pressing need in the United States.

"So far as concerns the parcels which have only been dealt with by the Prize Court, the matter perhaps hardly arises, as effect is given to the arrangement by consent being given to an Order for sale of the goods to the American firms concerned at the price which is agreed.

"With regard, however, to those parcels which have not already been dealt with by the Prize Court, it is considered that the compromise should be accepted in settlement of all claims, as indeed has been expressly stipulated and agreed in several of the cases. Perhaps, therefore, you will be kind enough to review the matter in the light of these observations, and favour me with any further remarks which you may have to make."

In connection with the statement in the fourth paragraph of the above letter "it is considered that the compromise should be accepted in settlement of all claims, as indeed has been expressly stipulated and agreed in several of the cases," I may say that H.M. Procurator General evidently refers to certain cases which have been settled direct with the agents of the American claimants without intervention from this office, and as an example of such a settlement I beg to bring to your attention the following copy of a letter from Thomas Cooper and Company as Agents for the American claimants, Hays Kaufmann and Lindheim, dated August 28, 1917:—

"We have received a letter from Messrs. Hays Kaufmann & Lindheim incorporating a telegram from yourself reading as follows:—

'Authorities prepared to release all these United States Needles on deposit value except items already sold at Court's orders.'

"We should be much obliged to you if you would be good enough to inform us whether the authorities have intimated to you that they are prepared to release these goods without any conditions as to the abandonment of any claim for the return of the amount of deposit or in respect of any claim for losses or damages, as we have been in communication with H.M. Procurator General with a view to obtaining the release of several parcel post shipments of needles and he has written to us intimating that he is prepared to consent to the release of the goods 'upon deposit in the Prize Court of the invoice value of the goods converted at pre-war rate of exchange,' but stipulating that 'such releases are to be in full and final settlement of all claims by the American claimants, either for the return of the money deposited or compensation for detention of the parcels.' We have written to the Procurator General asking him whether the terms which he now stipulates for are different to those which the

'authorities' have offered you, but up to the time of writing we have not received his reply."

The following is a copy of my letter dated September 6th. 1917, to H.M. Procurator General:—

"I have the honor to acknowledge the receipt of your letter dated September 1st. 1917, advising that in your opinion the terms of the Note from H.M. Government of April 24, 1916, do not apply to the release of needles detained from the mails.

"However, as I am still of the belief expressed in my letter to you of August 30, 1917, it seems wise to forward the correspondence on this subject to the Department of State. If there has been a change of views since from those expressed in the Notes of the American Government dated October 21, 1915,⁵ and January 4, 1916,⁶ I will advise you at the earliest possible opportunity."

The following is a copy of letter from H.M. Procurator General dated September 8th. 1917:—

"I am directed by H.M. Procurator General to acknowledge the receipt of your letter of yesterday stating that you remain of the belief expressed in your letter of the 30th August that the settlement of claims for the release of needles comes within the terms of the note of H.M. Government to the United States Government of the 24th April 1916, in which it was stated that they were prepared to concede that waivers of the right to put forward claims for compensation when made a condition of release, would be a hardship, and that no attempt would be made to enforce such as had already been given.

"While the Procurator General sees no reason to depart from the view expressed in his letter of the 1st inst., it does not appear that the matter is of sufficient importance to be made a matter of principle, and he will not, in dealing with these claims, require the release to be accepted in final settlement, in the sense that it will preclude the American claimants from being heard, if they so desire, at the conclusion of the War when the ultimate disposal of the particular funds in Court is under consideration, but it must be understood that other claims if any, must be made at the time when the case is brought before the Court for hearing.

"It may be convenient to state shortly how it is proposed to deal with these goods. The needles appear to fall within two classes; (a) those which have already been dealt with by the Prize Court and ordered to be sold and the proceeds of sale detained, and (b) those which are awaiting hearing and have not yet been made the subject of an Order of the Court.

"In dealing with class (a) it is proposed that consent should be given to an Order for the sale of the needles by private treaty to the American firms to whom the parcels were originally consigned, at the invoice price converted at pre-war rate of exchange, and to supplement this consent with permission for the parcels to be forwarded to their destination. In view of the political importance

⁵ *Foreign Relations*, 1915, supp., p. 578.

⁶ *Ibid.*, 1916, supp., p. 591.

which attaches to this particular class of goods, the sanction of the Prize Court to this somewhat irregular procedure has been obtained.

"With regard to goods falling within class (b) consent will be given to an Order for release of the goods for transmission to their destination, upon deposit of the Invoice value converted at pre-war rate of exchange.

"The Procurator General will be glad to learn that these observations and proposals meet with your concurrence."

I have replied to H.M. Procurator General as follows:—

"In reference to your letter of September 8th. 1917, in regard to the release of needles, I have the honor to state that I have read its contents with interest and attention. While I much appreciate your valuable assistance in releasing goods now urgently required for work of national importance, I regret to add that I cannot concur with your proposals insofar as they limit or circumscribe the opportunity of the consignees to establish what they may conceive to be their rights at some future time."

In connection with the above correspondence I may add that because the liability to rust makes the needles detained quasi-perishable, and because mills in the United States contributing at the present time very largely to the allied military resources are in urgent need of the needles at once in order to continue their work, a prompt release of the present detentions is expedient from the English point of view, especially as an arrangement by which the invoice value is deposited, adequately protects all possible British interests. The requirement, therefore, that in addition to the deposit, American claimants should release any claim for damages resulting from this detention seems entirely unnecessary. For these reasons, and because, as I have understood, the American Government has not acknowledged the validity of these detentions in the first instance, it is obvious that even if American shippers should make the deposit on the terms suggested by the British authorities, the Department of State might at a later date disregard any release as of no force—given under circumstances amounting to duress.

I therefore ask to be instructed if the Department has changed its views from those expressed in paragraph 31 of its Note to the British Government dated October 21, 1915.

I have [etc.]

ROBERT P. SKINNER

763.72112/5084

The Consul General at London (Skinner) to the Secretary of State

No. 4822

LONDON, September 25, 1917.

[Received October 9.]

SIR: I have the honor to refer to my dispatch to the Department, No. 4321, dated June 15, 1917, on the subject of the proposed liqui-

dation and settlement of pending Prize Court cases. From day to day I have been expecting to receive a promised list of these cases, but though the promise has been renewed at various times, I am still without the list in question. I understand that its compilation involves more labor and research than might be supposed.

It is understood that some time ago a general arrangement was made for the release of detained goods to French and other allied claimants, and ever since our declaration of war, American claimants have constantly requested similar treatment from the British authorities, and failure to obtain it has been followed by considerable bitter complaint that at a time when America is seeking by every means to assist the allies, the Prize Court of Great Britain appears to stand out for a narrow and burdensome application of rules intended for a very different political situation the practical effect of which is not to punish Germans but to add to the burdens and expenses of its own Government's supporters.

Attached hereto are excerpts illustrative of these American impressions.⁸

The release of needle shipments upon deposit in Prize Court of their invoice value, or upon purchase from the Admiralty Marshal, has been a concession in name only, since the British authorities have the use of this deposit during the war, and give no assurance that it will be returned thereafter.

The release of technical and educational books if consigned to institutions of learning has entailed slight relief. However, the authorities have construed this agreement narrowly, and have refused to release private and trade shipments of music, religious pictures, religious and philosophical works, bibles, testaments, and so forth.

In the case of the *Maracas* which I have discussed in my dispatch No. 4807 dated September 24, 1917,⁸ we have a curious situation, in which the Prize Court pays the owners for their goods, constituting an incriminated cargo, but proposes to punish the ship that carried the goods.

Other complaints have reached this office based on the summary disposal of the goods by the Admiralty Marshal without notice either to this office or to the American claimants with such speed as to deprive them of an opportunity to consider and take part in the pending negotiations for their release carried on between this office and H.M. Procurator General.

In a few cases when negotiations for the release of parcels were almost completed this office has received advices from H.M. Procurator General that "it has transpired that the parcel in question con-

⁸ Not printed.

tained merely a paper pamphlet which appeared to be of no value and was accordingly destroyed." As a result of this type of confiscation an American Doctor was deprived of a packet containing two journals "of no value" except as they were parts of a valuable set of books on physiological chemistry and gastro-enterology.

The foregoing are not extreme, but typical cases indicating a narrow view of Prize Court principles on the part of authorities who are personally most courteous and accommodating, with whom intercourse is most agreeable, but who simply can not make up their minds to adopt rules of conduct substantially different from those by which they were governed while we were still neutral.

As a practical means of emerging from the present difficult position, I renew the suggestions set forth in my 4321 of June 18 [15], 1917; viz:—

I. All West bound goods owned by American firms and held under the Order-in-Council of March 11, 1915, should be released.

II. Where such goods have been released against deposit in Prize Court of their invoice value the cash deposit should be returned.

III. All East bound post parcels should be returned to senders in the United States unless enemy ownership is already admitted, and in cases of doubtful ownership the East bound parcels should be returned to the Department of State to be dealt with in its discretion.

IV. As to Prize Court cases prepared and ready for trial a Committee of three, upon which at least one should be an American, should decide whether the proceedings should continue or be quashed and to deal with any other questions arising out of the Prize Court situation.

I venture to suggest that if the Department, after mature consideration instructs me to insist upon the foregoing terms or others of similar import, the instruction undoubtedly will carry great weight just now, and very probably bring about the desired liquidation of old cases which should be disposed of rapidly if for no other reason than to promote the good relations so much to be desired at the present time.

I have [etc.]

ROBERT P. SKINNER

763.72112/5055: Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, October 11, 1917—4 p.m.

[Received October 11—3:45 p.m.]

My despatch no. 4822, September 25 Admiralty Marshal states:

"I understand from the Procurator General who has forwarded me letter from Blockade Minister that when American Government approaches British Government concerning the release of seizures involving American interests to American citizens British Gov-

ernment will be prepared to give same advantages as heretofore afforded other Allied Governments".

SKINNER

763.72112/5574

The Consul General at London (Skinner) to the Secretary of State

No. 5026

LONDON, November 2, 1917.

[Received November 16.]

SIR: With reference to my despatch numbered 4822 dated September 25, 1917, in regard to the liquidation of pending cases in the British Prize Court involving American interests, I have the honor to report the receipt of a personal letter from Mr. Woods of the Procurator General's office dated October 30, 1917, reading as follows:

"Dear Mr. Skinner: I enclose a list of American claims so far as we have been able to sort them out from the many claims in the Prize Court. I cannot say that it is a complete list, but it may perhaps serve you as a basis for the list which you are preparing. "You will remember that it was arranged that I was to send you this list privately, and that it was not to be regarded as furnished officially by the Department. I am sorry it has taken so long to prepare, but it involved far more research than I had expected."

"Yours sincerely,

R. W. Woods."

and to attach herewith copies in quadruplicate of the list to which it refers.¹⁰

I have [etc.]

ROBERT P. SKINNER

300.115/18392: Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, November 20, 1917—4 p.m.

Your October 11, 4 p.m.

Endeavor obtain and promptly transmit concise statement of the conditions under which such releases have been made to Allies of Great Britain.

LANSING

300.115/18263

The Secretary of State to the Consul General at London (Skinner)

No. 2240

WASHINGTON, November 21, 1917.

SIR: The Department acknowledges the receipt of your despatch No. 4753, of September 11, 1917,¹¹ containing a résumé of the corre-

¹⁰ List not printed.

¹¹ *Ante*, p. 602.

spondence between you and the British Procurator General regarding the release by the British Government to American consignees of certain needles of German origin.

With reference to the inquiry in the last paragraph of your despatch, the Department informs you that it adheres to the views expressed in its note of October 21, 1915, to which you refer, and considers that the imposition by the Procurator General and the Prize Court authorities of the conditions referred to in the Procurator General's letter of September 8, 1917, would constitute an improper and unjustified hardship upon the American consignees of the goods in question and inasmuch as the benefits to be derived from the release of these goods would apparently accrue, in large measure, to the British Government, as well as to the Government of the United States, the Department is loath to believe that such conditions will, under the present circumstances, be insisted upon. Should American citizens find it to their interest to enter into an agreement by the terms of which their rights in the matter would be waived in order to obtain the release of the goods in question, the Department would interpose no objection to such procedure on their part.

I am [etc.]

ROBERT LANSING

300.115/13529 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, November 22, 1917.

[Received November 23—4:45 a.m.]

Department's 20th. My October 11. Investigation shows that Lord Robert's very beneficial suggestion that we might obtain same advantages as those hitherto extended to other Allied Governments was not based on existence of any definitely determined *modus*. When French goods are seized, if doubt favors claimant, goods are sold here and proceeds paid to French claimant. Goods of enemy origin bound for France are disposed of on merits of case, concessions usually being made in favor of French claimant provided he has paid for consignment. In similar American cases goods have been released on payment of value in Prize Court. Proposal made to me that as to American goods of suspected enemy destination, they be placed on table and disposed of by joint committee of, say two or four persons. Said committee prepared to permit condemnation in Prize Court when claim appeared weak. American concerns having obtained goods of enemy origin by depositing value in Prize Court before America declared war, feel that such deposits should be released inasmuch as arrangement was made only after American

ownership had been clearly established. Suggestion for joint committee probably most practical means of liquidating outstanding cases.

SKINNER

300.115/13529

The Secretary of State to the Ambassador in Great Britain (Page)

No. 5601

WASHINGTON, December 13, 1917.

SIR: The Department encloses herewith copies of telegrams dated October 11 and November 22, 1917, received from the Consul General¹¹ with reference to a proposed arrangement with the British Government for the release of American owned goods which were seized by British authorities prior to the entrance of the Government of the United States into the war, and also a copy of his telegram of November 1, 1917, giving a list of such goods.¹²

Questions in relation to the seizures of such goods have been and are now the source of considerable annoyance to this Government and doubtless also to the British Government. In many instances the amounts involved are so small that they do not justify any considerable expense on the part of the owners to obtain the release of the goods, while in other instances the goods seized are of such value that their continued detention is of serious consequence to American citizens and American industries. Moreover it seems possible that a material portion of the goods which are now detained by the British authorities might, if released, be utilized to advantage in furtherance of the common cause in which the two Governments are united. Among such articles might be mentioned particularly leather and hides, oils, cotton goods, dental and surgical instruments, soap and cleansing materials, machine and auto parts, tools and hardware, rosin, babbitt and other metals, seeds, chemicals, buttons, hair and fibre. Many articles of this sort are now in great demand in the United States where they are used in connection with the manufacture or preparation of supplies for the Allied Armies in the field. In these circumstances the continued retention of these articles in Great Britain by the British Government is at cross purposes with the general aims of both Governments, and consequently and naturally creates here among the trades concerned an impression of reluctant co-operation on the part of Great Britain which is not understood and is difficult to explain. The Department, therefore, considers that it would be very desirable if some arrangement could be reached for an expeditious and equitable settlement of all pend-

¹¹ *Ante*, p. 608, and *supra*.

¹² Not printed.

ing cases of seized goods, including cases in which goods have already been released on deposit of their value with the prize court.

You are instructed, therefore, to take this matter up with the Foreign Office at an early opportunity and endeavor to ascertain whether the British Government would be willing to enter into an arrangement of this character and, if so, whether they would be prepared to indicate a method of procedure that might be adopted.

I am [etc.]

ROBERT LANSING

300.115/13750

The Consul General at London (Skinner) to the Secretary of State

No. 5373

LONDON, January 9, 1918.

[Received January 21.]

SIR: With reference to the Department's instruction No. 2240 dated November 21, 1917, File 300.115/13263 stating the views of the Department with regard to conditions sought to be imposed by the British authorities on releases of needles after deposit of their value in Prize Court, I have the honor to report that these observations were laid before the British Procurator General, who asked that I indicate in what respect it is considered that the conditions referred to in the letter from his Department of September 8, 1917,¹⁸ constitute an improper and unjustifiable hardship upon the American consignees of the goods in question.

On December 31, 1917, I replied as follows:—

"I have the honor to acknowledge the receipt of your letter dated December 24, 1917, enquiring which conditions in your letter dated September 8, 1917, are considered by the Department of State as constituting an improper and unjustifiable hardship upon the consignees of the goods in question.

"It is my inference that these words refer to your stipulation—

"'It must be understood that other claims if any must be made at the time when the case is brought before the Court for hearing.'

"because this stipulation may have been interpreted by the Department of State in a sense that you did not intend to convey. It is apparent, however, that the Department adheres to the views expressed in its Note of October 21, 1915, and that it is desirous that these releases be understood to be without prejudice to any claims whether or not they are matured."

H.M. Procurator General under date of January 1, 1918, replied as follows:—

"I am directed by H.M. Procurator General to acknowledge the receipt of your letter of the 31st ultimo relative to the conditions

¹⁸ See despatch no. 4753, Sept. 11, 1917, from the consul general at London, p. 602.

attached to the release of needles detained from the mails, and to say that he regrets that he is unable to accede to the views that it is unreasonable to require claimants to put forward at the time of the hearing of the Prize Court proceedings claims which they are in a position to make at that date."

By the words "other claims" as used in his letter of September 8, 1917, "claims which have matured" as used in his letter of September 13, 1917, a copy of which is attached hereto, "claims which they" (American claimants) "are in a position to make" as used in his letter of January 1, 1918, I would suggest is meant all claims except those going to the title of the goods or deposit: it being the plan of H.M. Procurator General that at the end of the war or when the ultimate disposition of the goods or their equivalent proceeds is considered, the interested alien claims—Americans, Swedes, Dutch, etc.—may set up conflicting claims as to the same goods, the British interests being virtually interpleaded as custodians with the right reserved in certain cases to exact costs.

It is the British desire to have all questions of jurisdiction of the Court, legality of the seizure, justification of the detention and damages therefor determined in the Prize Court in the ordinary course and at no other time or place, except at a diplomatic appeal; and I venture to suggest that the insistence on the fulfillment of this desire may give to possible diplomatic settlements after the war the character of a Court of Appeal from which all questions are excluded except those on which the Prize Court has previously ruled adversely to the particular American appellants—the failure to raise questions in the ordinary course before the Prize Court being regarded as a waiver of the right to have them considered diplomatically.

In this connection I would respectfully refer the Department to my dispatch No. 5373 [5374] dated January 9, 1918,¹⁴ on the subject of the procedure which has just been prepared for the protection of the interests of American claimants who have made deposits in Prize Court.

I have [etc.]

ROBERT P. SKINNER

[Enclosure]

The Secretary to the British Procurator General (Woods) to the American Consul General at London (Skinner)

[LONDON,] September 13, 1917.

SIR: I am directed by H.M. Procurator General to acknowledge the receipt of your letter of the 11th instant with reference to the terms upon which the Needles under detention in this country are to be released for transmission to their destination.

¹⁴ Not printed.

The Procurator General does not at present appreciate that his letter of the 8th instant limits or circumscribes the opportunity of the Consignees to establish what they may conceive to be their rights, but he will proceed upon the footing that any claims which have matured at the time of the hearing of the Prize Court proceedings will then be presented for decision.

I am [etc.]

R. W. Woods

300.115/13750

The Secretary of State to the Consul General at London (Skinner)

No. 2415

WASHINGTON, February 27, 1918.

SIR: The Department has received your despatch No. 5373, of January 9, 1918, containing extracts of correspondence with the British Procurator General with regard to conditions sought to be imposed by British authorities on the release of needles shipped from Germany to American consignees.

It would appear from the communication addressed to you by the Procurator General, under date of January 1, 1918, that it may not be the purpose of the British authorities to make the release of these goods contingent upon agreements on the part of consignees to undertake to waive their right to invoke diplomatic intervention in support of claims for losses growing out of the detention of the goods.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

300.115/14100: Telegram

The Chargé in Great Britain (Laughlin) to the Secretary of State

LONDON, May 31, 1918—1 p.m.

[Received June 1—3:30 a.m.]

10360. Your 7973, May 28.¹⁵ Foreign Office informs me that they had under consideration with Procurator General question of release of American goods placed in Prize Court before entry of the United States in the war, and still awaiting adjudication. Foreign Office states that they considered both sides of the question, that is, goods shipped from the United States, and release of enemy goods now in Prize Court and understood to have been purchased by Americans. Foreign Office entirely sympathized with desirability of utilizing these materials to the best advantage. They are anxious to meet your views as far as possible, and are soon to give Embassy a formal reply to its representations. In the informal note in which the

¹⁵ Not printed.

above appears, however, Lord Robert Cecil ¹⁶ says there is one point which causes difficulty; a considerable portion of the goods of both classes noted above are in the category of those intercepted under order of March 11, 1915. Cecil says in deference to wishes of Washington, Foreign Office would be willing to release these goods, whether inward or outward bound, to American claimants in all cases where they can be shown clearly not to be property of enemy subjects. He goes on to say that if the Foreign Office does this, however, they abandon the opportunity of justifying seizure in Prize Court, and feels this could hardly be done if there remains a possibility of Foreign Office being faced on some future date with claims based on alleged invalidity of order in council and illegality of seizures under it. Cecil says he realizes Department could hardly be expected to withdraw formally from the attitude it adopted in earlier stages of the war toward order in council. He believes, however, that it is not unreasonable for Foreign Office to ask that if they comply with a request based on different circumstances now existing, the Foreign Office should not be exposed to subsequent claims of nature suggested above after they relinquish their right to press for a judicial decision in Prize Court. He adds American Government will doubtless appreciate that since their entry into the war, they have derived full benefit of British restrictions, which have resulted in shortage of essential commodities in enemy countries and curtailment of enemy trade in neutrals.

He concludes that Foreign Office would be quite satisfied with an informal intimation from the Ambassador that this point would not cause difficulty, and that if this intimation were forthcoming he believes Foreign Office would be able to release all goods on litigation [*information?*] submitted by the Ambassador, or their proceeds if these goods have already been sold, subject to release being accepted in full discharge of any control [*claim?*] which might be made in Prize Court. An exception is made, however, as to certain contraband shipments such as those of K. and E. Neumond as in such cases the evidence of intention to assist enemy is so overwhelming that it would be out of question for Foreign Office to abandon proceedings. If, however, any goods in these cases were required by American Government for military purposes and if they are still available, it is probable Foreign Office would place them at disposal of American authorities. As soon as I receive formal reply I shall telegraph it entire. Please inform me what position Department assumes on points raised by Lord Robert, particularly as to informal intimation mentioned by him in order that I may make a suitable answer to his note.

LAUGHLIN

¹⁶ British Minister of Blockade

300.115/14100: Telegram

The Secretary of State to the Chargé in Great Britain (Laughlin)

WASHINGTON, July 12, 1918—2 p.m.

180. Your 10360, May 31, 1 p.m. Mr. Nielsen, an assistant solicitor of the Department, is on his way abroad, and is under instructions to take up this matter with you upon his arrival. I would be pleased if there could be placed at his disposal all the information which the Embassy and Consulate-General may have on the subject and advise with him in respect to carrying out the following instructions:

The Department has given careful consideration to the point raised by the British Government that they feel they could not release American goods seized under the British Order in Council of March 11, 1915, and abandon the opportunity to justify seizures before the Prize Court, if the possibility remains that the Foreign Office would at some future time be faced with claims based on the invalidity of the order.

The Department is not clear whether it is the desire of the British Government that they should receive assurances that if the particular goods in question should be released no question would subsequently be raised in any case between the two Governments as to the validity of the Order, or merely that they should be assured that no diplomatic claims would be presented in the particular cases in which goods might be released in accordance with the contemplated arrangement.

The Department would be willing to reach an understanding with the British Government to the effect that, in cases in which owners of goods seized would be willing to receive them under certain conditions including an understanding that no claims resulting from their seizure would subsequently be made on the British Government, the Government of the United States would regard such cases as finally adjusted so far as concerns pecuniary reclamation against the British Government therefor, reserving, however, for future discussion the general question of the propriety and the validity of the Order in Council of March 11, 1915, on principle or in particular cases not settled under this proposed arrangement.

The Government of the United States could not enter into any arrangement for the release of goods which would contemplate any undertaking on its part to withdraw from its attitude previously expressed with regard to the order of March 11, 1915, or not to raise any question in the future as to the validity of the Order in Council, or to withhold protection of rights of American citizens which may appear to have been infringed by the Order in Council

and therefore to warrant espousal by the Government of the United States.

While it may be the British Government at this time desire only to obtain assurances with regard to claims that might be based on the particular cases to which they refer, the Department deems it desirable with a view to avoid any future misunderstanding that the position of the Government in this matter should be made entirely clear.

Please show a copy of this to the Consul-General.

LANSING

300.115/14100 : Telegram

The Secretary of State to the Ambassador in Great Britain (Page)

WASHINGTON, August 15, 1918—3 p.m.

786. It having become impracticable for Nielsen to proceed to London, Department desires you to address a communication to Foreign Office in sense of Department's telegram No. 180, July 12, beginning with words: "The Department has given careful consideration".

LANSING

300.115/14287 : Telegram

The Ambassador in Great Britain (Page) to the Secretary of State

LONDON, August 27, 1918—5 p.m.

[Received August 28—11:40 a.m.]

1418. Your 786, August 15th, Foreign Office communicated with in sense of Department's 180, July 12th, and am now in receipt of reply as follows:

[Here follows summary of British note of August 24, 1918, transmitted in despatch no. 9821, September 3, from the Ambassador in Great Britain, *infra*.]

Have transmitted copy of note and list to Skinner advising him to await instructions from Department as to whether he should communicate with Procurator General. Copy of Foreign Office note and full list to be forwarded by next bag. Please instruct.

PAGE

300.115/14331

The Ambassador in Great Britain (Page) to the Secretary of State

No. 9821

LONDON, September 3, 1918.

[Received September 18.]

SIR: With reference to my telegram No. 1418 of August 27, 5 p.m., in regard to the desire of the United States Government to obtain

the release of various American goods which have been seized by the British Authorities, I now have the honor to transmit herewith to the Department, a copy of the Note, dated August 24, 1918, which I have received from the Foreign Office, together with a copy of the revised list of goods referred to therein.¹⁷

I have [etc.]

For the Ambassador:

IRWIN LAUGHLIN

[Enclosure]

The British Secretary of State for Foreign Affairs (Balfour) to the American Ambassador (Page)

No. 138205/345/J

LONDON, August 24, 1918.

YOUR EXCELLENCY: In your Note of January 9th last (No. 53) you enquired whether His Majesty's Government would be willing to enter into an arrangement for the release from the Prize Court of goods of American ownership, seized by the British Authorities before the entry of the United States into the war, and still awaiting adjudication, a material portion of which might, in this event, be utilized to advantage in furtherance of the common cause in which the two Governments are united. At the same time, the United States Consul-General submitted to His Majesty's Procurator-General a list of goods of enemy origin, similarly detained, which were understood to have been purchased and paid for by American citizens.

2. His Majesty's Government, I need hardly say, are in full accord with the views expressed in Your Excellency's Note as to the desirability at the present time of utilizing these materials to the best advantage. As it was uncertain, however, how far the goods mentioned in the list therein enclosed still remained unsold, I referred the list in the first instance to the Procurator-General, who, in the accompanying revised version,¹⁸ has indicated their present position. It will be seen that in a few instances the goods have already been dealt with by the Prize Court and have either been condemned or released, and that in a few others the documents produced to the Procurator-General show that no American interests are involved.

3. I have now the honour to inform Your Excellency that, in deference to the wishes of the United States Government, and having regard to the assurances contained in your Note of the 25th ultimo (No. 1004) His Majesty's Government are prepared to entertain the release to the American claimants of the goods in question, for sale in this country or re-export under license,—with the exception of certain of the items marked A in the enclosed list, and necessarily

¹⁷ List of goods not printed.

¹⁸ Not printed.

in the few instances mentioned above—in all cases where they can be clearly shown not to be the property of enemy subjects, and provided the releases are accepted in full discharge of any claims that might be made in the Prize Court. For this purpose the Procurator-General will be ready to deal with individual claims, and in suitable cases to grant release to claimants who are prepared to accept the goods, or their proceeds if already sold, in final settlement of all claims. As the most expeditious way of dealing with the matter I would suggest that Mr. Skinner, or such other person as Your Excellency may appoint, should enter into direct communication with the Procurator General.

4. As regards the goods marked A in the list, these relate to contraband shipments seized by His Majesty's forces, where the evident intention to assist the enemy is strongly pronounced, and His Majesty's Government feel assured that the United States Government would not expect them to discontinue the Prize Court proceedings in favour of persons whose attempt to assist what is now the common enemy has thus been frustrated. Should, however, any of these particular goods be required by the United States Government for military purposes, and be still available, arrangements could no doubt be made, in communication with the Procurator-General, to place them at their disposal.

I have [etc.]

(for the Secretary of State)

EYRE A. CROWE

300.115/14287 : Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, September 21, 1918—3 p.m.

Consult Embassy regarding its No. 1418, August 27, 5 p.m. Take matter up with Procurator General at once, and ascertain what proofs he required in addition to those already presented to establish American ownership of goods not sold and whether speedy determination of questions of title may be expected, with a view to effecting delivery of goods to American owners at earliest possible moment.

LANSING

300.115/14374 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, September 23, 1918—noon.

[Received 12:25 p.m.]

Departments 21st regarding title to American goods detained by British authorities. Procurator General states that goods or proceeds

will be released on presentation of full set of bills of lading or blanket release will be made immediately if I will sign bond conditioned for protection of British Government against presentation in future by Scandinavian or Dutch consignees of possible outstanding bills of lading. As bills of lading are practically [all] lost or scattered I suggest latter course in which American Government could protect itself by requiring similar bond from individual American claimants as precedent condition to return of goods or their proceeds. Department might in addition require collateral security in the shape of deposit in Washington of Liberty bonds to value of goods. Foregoing does not apply to the goods already condemned or goods in which it appears there is no American interest or goods obviously consigned to Germany as to which British evidence is very strong and marked A on list transmitted in accordance with Embassy's telegram number 1418 dated August 27th.¹⁹ Foregoing release to be in full settlement of all claims by American owner. To save tonnage and cost of transportation, I suggest that all goods released be first offered to purchasing agents of American Army and Navy in England before return to United States.

SKINNER

300.115/14374: Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, October 4, 1918—3 p.m.

Your September 28, noon.

Department prefers that each case be disposed of by Procurator General and that individual guaranty of American owners be taken by British Government with sufficient security. Endeavor to effect such an arrangement.

Does proposal extend to goods or proceeds in addition to those on list? What arrangements are proposed for disposal of moneys to amount of invoice value deposited to effect release of goods?

Show this to Embassy for its information.

LANSING

300.115/14401: Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, October 10, 1918—12 p.m.

[Received October 11—6:21 p.m.]

Department's 4th, mine, September 28, 12 noon. . . . Proposal extends only to goods or proceeds on list. Status of remittances dif-

¹⁹ List not printed.

ferent from goods in that title thereto has passed to enemy addressees. This status described in my despatch 6719 dated September 5th, 1918, subject George Dohrmann.²⁰ Am endeavoring to arrange with British authorities for return to American claimants of the deposits in Prize Court equivalent to total invoice value of the goods in whatever goods were not contraband and title thereto can be proven to be in American claimants.

SKINNER

300.115/14450

The Consul General at London (Skinner) to the Secretary of State

No. 6942

LONDON, October 19, 1918.

[Received October 29.]

SIR: I have the honor to refer to my Despatch No. 6872, dated October 2, 1918,²⁰ and to the Department's cablegrams, dated October 4²¹ and October 10,²² instructing me to endeavor to effect the release of American goods, or their proceeds, now detained in the British Prize Court, and to advise that my prompt action was considerably hampered because of the absence from London of Mr. Woods, of the Procurator General's office, the man who has, since the beginning of hostilities, had this matter immediately in his hands. On October 17th, however, an appointment was arranged with Mr. Woods, when the instructions of the Department were outlined.

The Procurator General stated that it was entirely feasible to dispose of each case of detained American goods by taking the owner's individual guarantee, with proper security, rather than have a blanket bond signed by the Department.

He repeated that the proposed arrangements referred only to certain goods indicated on the list mentioned in the Embassy's cablegram No. 1418, dated October 17 [*August 27*], or the proceeds of those goods, and that they did not extend to remittances, which are almost entirely eastward-bound to Germany, and as to which title had passed to the German addressees when the remittances were delivered to the post offices in America.

The possible disposal of money equal to the invoice value of detained goods, mostly westward-bound, which had been deposited in Prize Court with a view to releasing the goods, was then taken up, and it was pointed out that, under this arrangement, in many cases American owners had been obliged to pay twice for the merchandise.

²⁰ Not printed.

²¹ *Ante*, p. 620.

²² Not found in Department files.

The Procurator stated that this double payment had, he believed, occurred in relatively few instances and, as evidencing this belief, he referred to a ring of underwriters, doing business in Hamburg, which was largely engaged in insuring against all war risks the parcel mails from Germany and Austria to the United States. Obviously, he stated, where goods were so insured, the loss had been paid by the underwriters to the person holding either the title or an insurable interest. After the war, therefore, the money deposited in Prize Court by the American claimants would, in such cases, go to the German underwriters, who were entitled, he stated, to receive it.

It was pointed out, however, that in many cases no doubt a double payment had in fact occurred, and the Procurator was asked whether, on the proving of such double payment, the deposits in Prize Court might be released.

The Procurator replied that, in his estimation, if in fact a double payment had been made, then the American addressee of the goods had been able to sell the goods, because of their scarcity, at a price more than sufficient to make a profit, even after the double payment.

It was pointed out to the Procurator that the matter of possible and proper profits, even though they depended in part upon the scarcity of goods caused by the British blockade, was exclusively a matter of commercial business dealing in America, and had nothing to do with the question of whether the double price should be now retained by the British Government.

The Procurator stated that, although this was so, he had raised the question in order to dispose of any equitable claim on the part of the American claimants, because they were really not out of pocket.

It was then pointed out that the matter of price did not dispose of the equity, and if the question of the amount of profit was raised in each individual case, or if, because a few people had profited, all American claimants were to lose the interest on their money for the period of the war, it would really be an additional hardship on those who had made no profit at all, and on those who had already suffered a loss because of the British blockade. It would appear that the matter of profit was wholly irrelevant.

The Procurator stated that, if a double price was paid by the American claimants, the double price was more than paid by the American public, so that the claimants had in no case really been out of pocket.

It was pointed out that, from the point of view of the British Government, it would be expedient to release as much as possible, because, at this time, they were able to get, in return for the release, a full settlement of all claims in connection with the detention.

The Procurator replied that the terms of release would be the same after the war; that the only term of release now was that it be in full settlement of all claims; and that they would certainly exact the same settlement when the releases were arranged after the war. He added that the matter of the legality of the Order in Council, by which the proceeds were detained, had been argued, the day before, in the case of A. F. Klaveness and Company, (s.s. *Stigstad*) before the Judicial Committee of the Privy Council, and that it would unquestionably be decided in favor of the Crown.

I am transmitting a report of the arguments,²⁴ and shall not fail to forward the report of the decision in this case, as soon as it is received.

The Procurator suggested that the Department prepare a list of those cases in which it was certain that there had been a payment for the goods in Austria or Germany, as well as a deposit of their invoice value in Prize Court, but, when he was asked if he would acquiesce in the release of the deposits, if such a list were prepared, he stated that he was unable to make such an arrangement, and we therefore agreed that it would serve no useful purpose for the Department to prepare such a list. He therefore was unable to acquiesce in any arrangement for the release of the proceeds until after the war, when, he said, all could be more conveniently released at once.

Present at this interview was Mr. Bergman Richards, Special Assistant to the American Minister at Copenhagen, who is now on his way to the Department. His views on the interview may be of possible interest.

I have [etc.]

ROBERT SKINNER

300.115/15002

The Consul General at London (Skinner) to the Acting Secretary of State

No. 7352

LONDON, January 27, 1919.

[Received February 28.]

SIR: I have the honor to bring to the attention of the Department the fact that, under the Order in Council of March 11, 1915, considerable quantities of goods of German manufacture, purchased for importation by American firms, were seized and brought to this country during the early days of the war. Inasmuch as this Order in Council was intended to be preventive rather than punitive, and was so stated to be in effect at the time, many American importers,

²⁴ Not printed.

who without the slightest doubt were the legal owners of the goods and in some instances had already paid for them, were permitted to obtain possession of the property by depositing in the Prize Court the invoiced value thereof, these transactions in the Prize Court assuming the form of purchases, the money being detained in court in lieu of the goods. It was contemplated as a matter of course that, under the terms of the Order in Council in question, these deposits of money would be released eventually, and it seems reasonable to me to consider that that time is now at hand. Accordingly on January 4th, 1919, I approached the Procurator General on this matter, feeling myself strengthened in so doing because of the judgment of the Privy Council, just then announced, in the case of the Swedish steamship *Stigstad*, a vessel laden with iron ore destined for Germany, which was detained under the Order in Council of March 11, 1915, during the first year of the life of the Order.

In the *Stigstad* case the cargo was sold in this country, and it was decreed that the proceeds of the sale should be paid out to the representatives of the cargo owners, less the sum to be agreed upon for freight. Having received an intimation from the Procurator General that he would be unwilling to pay over to American owners, or depositors, the amounts held in their names, I mentioned to him that, from my point of view, if it was deemed advisable to make a payment to Swedish cargo owners during the early years of the war, I was at a loss to comprehend why a contrary course should be decided upon in respect to American owners, when the belligerent object which the Order in Council was intended to accomplish had been realized, and when the war itself had come to an end except in a narrow legal sense.

The Procurator General replied to me on January 13, 1919, and I enclose herewith a copy of his reply; whereupon I wrote to him on January 18th in part as follows:

"I have examined the *Stigstad* decision with care, and I find no statement therein which draws special distinction between property of enemy origin and neutral-owned, and property of neutral origin having an enemy destination. The judgment does set forth in considerable detail that the Order itself is a reprisal order, that it is intended to put a stop to exports to and from Germany, and that Neutrals must not complain if, as part of the burden of war, they are compelled to support some incidental expenses; but, with respect to the property itself, it was held that the owners might be reimbursed as to its value, and in fact they were reimbursed during the early days of the war, while at the same time American owners were either deprived of their property or were required to make deposits equal to the value thereof. This difference of treatment could be explained during the period of active belligerency; but, in view of the very altered circumstances under which we now live.

the effect of your present attitude is to penalize one of your co-belligerents”.

On January 22nd, the Procurator General, answering my letter of January 18th, said:

“The fundamental difference between yourself and this Department appears to be due to the fact that two of the premises upon which your letter proceeds are incorrect. It was not the case that deposits were only accepted upon prior proof of non-enemy interest. On the contrary, not only has it always been the view of this Department that, under the decision in the case of the American Bead Company, the property in the goods remained in the German sender, but it was also known as a fact that in many of the cases payment had not been made by the American addressees. The question of legal title was not regarded as a matter of importance, as the transaction was in effect a sale under the Order of the Court, which gave protection to the Authorities by whom it was sanctioned.

“The Procurator General cannot admit that firms who have received their goods by purchase from the Prize Court have any equitable claim for the return of the money which they have paid for them, or that any hardship is imposed on them by requiring strict proof of title at the conclusion of the war, when enemy firms, who may conceive that they are interested in the funds, will have an opportunity of presenting their claims”.

I am today replying to this communication of January 22nd, and I transmit herewith copy of my letter.

Here the matter rests for the present, as it is entirely clear that the Procurator General will not release the deposits referred to, unless pressed to do so by some higher authority, or in consequence of instructions which the Department may be inclined to send to me, setting forth its views in some detail.

I have [etc.]

ROBERT P. SKINNER

[Enclosure 11]

The Secretary to the British Procurator General (Woods) to the American Consul General at London (Skinner)

[LONDON,] January 13, 1919.

SIR: I am directed by H.M. Procurator General to acknowledge the receipt of your letter of the 9th instant, relative to sums of money deposited in the Prize Court by the American consignees of goods detained in this country under the Order in Council of 11th March 1915.

These cases are not analogous to the case of the S.S. *Stigstad*, to which you refer. In that case Messrs. A.F. Klaveness & Co., to whom payment was made, were the unpaid shippers of the cargo. In the cases to which you refer the claimants are not in that position. They

are in fact firms who have purchased and obtained delivery from the Prize Court the goods in which they were interested.

It is not known at present whether the enemy firms, by whom the goods were dispatched, have been paid or not. Moreover, according to the decision of the Prize Court in the case of the s.s. *United States*, the claim of the American Bead Company, the property in and title to the goods and, therefore, the proceeds of sale remains vested in the enemy firms.²⁴

In the circumstances, therefore, the Procurator General is advised that he cannot safely accede to the request for the return to the American firms of the money deposited by them, inasmuch as the enemy firms concerned may after the conclusion of peace present claims in respect of the same deposits.

I am [etc.]

R. W. Woods

[Enclosure 2]

The American Consul General at London (Skinner) to the Secretary to the British Procurator General (Woods)

350. RPS/GG

Naval Prize

LONDON, January 27, 1919.

SIR: I have the honor to acknowledge the receipt of your letter of January 22, 1919, respecting the above matter, in which you correct my misapprehension as to bonds or indemnities in regard to goods held under the Order in Council of March 11, 1915, and in which you discuss briefly the effect, from your point of view, of the decision in the case of the American Bead Company.

I note your contention that American firms who have received their goods by purchase from the Prize Court have no equitable claim for the return of the money which they have paid for them. Although I feel that it will serve no useful purpose for me to deal further with your observations, I cannot refrain from remarking that, while the operations in the Prize Court now under consideration may be referred to formally as questions of open purchase and sale, I think you will recognize that, for practical purposes, we are dealing with deposits of certain sums of money, the ultimate return of which, without doubt, was contemplated when these transactions took place, and, indeed, it is stated in the Order in Council of March 11, 1915, itself, "that the proceeds of goods sold by the Court shall be dealt with in such manner as the Court may in the circumstances deem to be just".

²⁴ *Foreign Relations*, 1916, supp., pp. 494-495.

In the case of the American Bead Company to which you draw my attention, the Court was very careful to state that the question for decision was whether or not the goods were "enemy property" for the purposes of the Order for Reprisals, and to explain that legal ownership, if insisted upon, might, in certain circumstances, defeat the objects of the Order in Council of March 11, 1915. The object of the Order was to put an end to German commerce and, at the present stage of affairs, Germany lying helpless at our feet, and the war being over except in a legal sense, the only possible result of your determination to retain possession of the deposits of American concerns is to cause loss and inconvenience to your own co-belligerents, without in any manner whatsoever affecting the interests of German traders.

In conclusion, I can only reiterate my regret that you are unwilling to deal with American firms in the same favorable manner in which the Swedish owners of the *Stigstad* cargo were dealt with under the same Order in Council to which I am now referring, at the very height of the war itself.²⁵

I am [etc.]

ROBERT P. SKINNER

300.115/15001 : Telegram

The Consul General at London (Skinner) to the Acting Secretary of State

LONDON, February 27, 1919—3 p.m.

[Received 5:25 p.m.]

Procurator General refers to correspondence between Foreign Office and Embassy and especially Ambassador's note of July 25th, 1918,²⁶ as precluding American claimants to whom goods or proceeds of sale of goods are released from pressing for compensation thereafter through diplomatic channels. In letter dated July 25th Ambassador stated Mr. Lansing would be willing to reach understanding to above effect, Government of the United States regarding delivery of goods or proceeds under certain conditions as having effect of finally adjusting matter as regards pecuniary reclamations. Procurator General gathered from this letter that the matter was agreed to, and that all releases now granted on filing of indemnity bond are accepted in final settlement of all claims whether legal or diplomatic. Will Department please confirm or correct this understanding.

SKINNER

²⁵ See *ibid.*, pp. 492-494.

²⁶ Not printed; based upon Department's telegram no. 180, July 12, 1918, p. 616.

300.115/15001: Telegram

*The Acting Secretary of State to the Consul General at London
(Skinner)*

WASHINGTON, March 11, 1919—4 p.m.

Your February 27, 3 p.m. Ask Embassy for copy of Department's 180, July 12 last.²⁷ Embassy has been instructed to give you copy.

POLK

841.711/2710

The Consul General at London (Hollis) to the Secretary of State

No. 8267

LONDON, August 16, 1919.

[Received September 10.]

SIR: I have the honor to report that the British War Office has just issued a statement showing that during the war the postal censorship in the United Kingdom examined some 630 million postal packets and that approximately 1,300,000 of these packets were detained on the ground that their transmission would have assisted the enemy's military and naval plans, or have increased his commercial or financial resources, or have furthered his far-reaching campaign of political and commercial propaganda. Now that the war is ended the question of the disposal of these detained mail packets has been taken up by the War Office and this has been the subject of a long and careful consideration and it is stated that the decisions now reached have been governed by the desire to guard the interests of Neutral as well as Allied nations, to avoid as far as possible injury to commercial firms, and individuals, and to avoid unreasonable expense. It has now been finally determined that such of this correspondence as originated in, or was destined for the United Kingdom will be destroyed except where it contains articles and documents of value, which can now be transmitted with safety.

With regard to mails carried over the United Kingdom in transit to and from foreign countries, and mails landed from neutral ships which entered British territorial waters, it has been decided that packets containing goods, currency, realizable securities, or other financial packets of value will be put into the Prize Court; that commercial correspondence and private correspondence containing documents of value will be released; and that private correspondence will be destroyed, inasmuch as it would be impossible without very great expense to re-examine packets of this class in order to determine which could or could not now safely be sent on.

The total number of packets released or about to be released under these decisions is approximately 92,500 registered and 500,000 un-

²⁷ *Ante*, p. 616.

registered packets. The preparation of packets for release and their actual handing over to the Post Office began on June 23, and will be completed by August 30. The work is being carried out by a staff of about 50 male and 150 female workers, irrespective of Post Office staff. All packets released will be closed with the Censorship label and stamped "Released by the British Military Authorities."

Inquiries with regard to missing letters are generally undesirable, and to many questions no answer could, in the nature of the case, be given, since a vast mass of postal matter was lost through submarine warfare and other causes, and many packets were detained by Allied and enemy censorships. Inquiry as to a missing letter, that is desired to be made by persons other than those resident in the United Kingdom should be made through diplomatic channels. An inquirer should state the name and address of the person to whom the packet was addressed, the date of its posting, and the nature of the contents. He should also state the registered number and the office of origin wherever the letters were registered.

Trusting that this information will prove to be of interest to the Department,

I have [etc.]

W. STANLEY HOLLIS

300.115/14331 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, August 28, 1919—3 p.m.

5885. Your despatch 9821, September 3, 1918,²⁸

You will address a note to Foreign Office as follows:

"I have the honor to refer to Your Excellency's note of August 24, 1918,²⁹ regarding the release of American owned goods detained by the British authorities. As the economic blockade of the Central Powers has now been raised, the Government of the United States believes that American owned goods detained by the British authorities under the Order in Council of March 11, 1915, should be released to the American owners upon the production of documents establishing their title to the goods at the time of detention. My Government is also of the opinion that in cases in which it has been deemed advisable by the British authorities to sell the goods, the proceeds of the sale should be released to the American owners.

In a large number of cases arrangements were made whereby the American owners of goods detained by the British authorities deposited the invoice value of the goods with the British Prize Court to effect the release of the goods for use in the manufacture of materials necessary for the prosecution of the war by this country. My Government instructs me to inform Your Excellency that it is of the

²⁸ *Ante*, p. 617.

²⁹ *Ante*, p. 618.

opinion that the British Government should take immediate steps to pay over these funds upon the submission of documents establishing American ownership of the goods at the time of detention.

In bringing these matters to Your Excellency's attention my Government instructs me to refer to the assurances contained in Viscount Grey's note of March 15, 1915, to Mr. Page,³⁰ as follows: 'His Majesty's Government have felt most reluctant at the moment of initiating a policy of blockade to exact from neutral ships all the penalties attaching to a breach of blockade. In their desire to alleviate the burden which the existence of a state of war at sea must inevitably impose on neutral sea-borne commerce, they declare their intention to refrain altogether from the exercise of the right to confiscate ships or cargoes which belligerents have always claimed in respect of breaches of blockade. They restrict their claim to the stopping of cargoes destined for or coming from the enemy's territory.'

I am instructed by my Government to request Your Excellency to furnish me an expression of the views of the British Government with regard to release of these goods and moneys at an early date."

Consult Consulate General regarding its despatch 7352 of January 27 last, and urge upon Foreign Office importance of early favorable decision in this matter as a large number of complaints have been lodged with the Department relative to the non-release of these goods and moneys by the British.

LANSING

300.115/20489b : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, November 21, 1919—5 p.m.

6200. Consult Consulate General regarding Department's May 29, 1917, 5 p.m.,³¹ and subsequent correspondence concerning cases pending in Prize Court involving property claimed by American concerns. If these cases now pending in Prize Court or on appeal could be amicably adjusted or settled by American claimants out of court, it is believed good feeling in American commercial circles would be materially promoted and many grounds of irritation and of subsequent controversies avoided. If you see no objection thereto, take matter up with appropriate authorities with a view to preparing them for a favorable reception of compromise offers for settlement out of court should they be made. You may say that this Government would be glad to have any such suggestions of settlement favorably entertained. Report.

LANSING

³⁰ See telegram no. 1798, Mar. 15, 1915, from the Ambassador in Great Britain, *Foreign Relations*, 1915, supp., p. 143.

³¹ *Ante*, p. 601.

800.115/20489a : Telegram

The Secretary of State to the Consul General at London (Hollis)

WASHINGTON, November 21, 1919—5 p.m.

Department's May 29, 1917, 5 p.m.³²

Please cable list of all pending cases whether in Prize Court or on appeal resulting from seizure of vessels or cargoes in which American concerns are interested. Report in detail by mail concerning means to effect prompt settlement of these cases to prevent further irritation resulting from them.

LANSING

800.115/20497 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, November 26, 1919—6 p.m.

[Received 5:30 p.m.]

Department's 21st. Has the Department noted my 7885, May 26th and 8400 September 10th³³ enclosing lists Prize Court cases. Am asking for revised list which however may not contain long list [of] cases where American owners deposited value of goods under order of council March 11th, 1915, under belief that deposits would be returned [at] conclusion of war. Prize Court has refused to refund generally claiming war not over, but in *Stigstad* case, and perhaps others, owners of goods received value thereof. I saw Ambassador yesterday and suggested that Foreign Minister be asked to advise Procurator General of Government's wish that American companies be reimbursed immediately and all cases settled. I believe that if Foreign Office instructs Procurator General to abstain from his present legalistic view and urges him to settle all cases on equitable basis, presumably by nominating British representative to meet me informally, something effective may follow.

SKINNER

800.115/20497 : Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, December 1, 1919—3 p.m.

Your November 26, 6 p.m. Department believes deposits to effect release of goods detained under Order in Council of March 11, 1915, should be released in proper cases without further delay as economic

³² *Ante*, p. 601.

³³ Neither printed.

reasons for detention of goods ceased long ago. Ambassador has taken up matter of release of these deposits with Foreign Office, but as yet no reply has been received. Department desires to obtain list of these cases and amount deposited in each case and total amount involved. Telegraph report.³⁴

LIANSING

300.115/20523 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

LONDON, December 10, 1919—4 p.m.

[Received December 10—3:22 p.m.]

3510. In reply to Department's 5885, August 28, 5 [3] p.m., contents of which I transmitted to the British Government on September 2d, Foreign Office has just addressed to me following note:³⁵

"I have now the honor to inform Your Excellency that His Majesty's Government will be quite prepared to consider, and in proper cases to consent to, an order for the release upon such terms as the court may deem just of goods which were detained under the Order in Council of March 11, 1915, to American claimants who may establish their ownership at the time of shipment. The proceeds of goods already sold or the invoice values deposited to which Your Excellency refers, would be dealt with in like manner. As observed in my former note of August 24th, 1918, it would be understood that such releases are accepted in final settlement of all claims. For this purpose I would suggest that claims accompanied by documentary proof of such ownership should be forwarded by the claimants to His Majesty's Procurator General direct."

For Foreign Office's note of August 24th, 1918, see my number 9821, of September 3d, 1918.³⁶

DAVIS

300.115/20589

The Consul General at London (Skinner) to the Secretary of State

No. 8949

LONDON, December 29, 1919.

SIR: I have the honor to refer to my telegram of December 22, 1919,³⁴ in regard to Prize Court matters in which I set forth the procedure indicated by the Procurator General as necessary in order to effect the release of the consignments described by the Foreign Office in Lord Curzon's note of December 4 [6], 1919. The Department will have noted from my telegram that practically all east bound goods will be released on presentation of documents of title

³⁴ Not printed.

³⁵ Dated Dec. 6 and signed by Lord Curzon.

³⁶ *Ante*, p. 617.

and full sets of bills of lading, together with invoices when possible; but as to certain cases the Procurator General desires to obtain Prize Court decisions in order to clear up the principles involved. As to west bound goods, these will be released on evidence of payment having been made; deposits will be released on proof that the goods had been paid for prior to the deposits having been made; and goods bought on running account will be released when it can be shown that the running account really effected payment. In view of this understanding with the Procurator General I am now prepared to receive applications for the release of goods, or the re-imbursement of deposits. . . .

I have [etc.]

ROBERT P. SKINNER

341.115L89/10

The Consul General at London (Skinner) to the Secretary of State

No. 9036

LONDON, January 14, 1920.

[Received January 29.]

SIR: I have the honor to refer again to the Department's instruction No. 3463, (341.115L89/6 So), of October 28, 1919,³⁷ in regard to the above matter.³⁸ As stated in my despatch, No. 9013, of the 9th instant,³⁷ the Procurator General considers that in this matter it will be necessary for a further application to be made to the Prize Court for directions as to the disposal of the funds.

As the decision of the Procurator General seems to me not in accordance with the arrangement suggested by Lord Curzon in his note of December 6, 1919,³⁹ setting forth that in proper cases an order would be given for the release of the proceeds of the goods already sold, I wrote to that official as follows:—

“It is my understanding that in the time of the late Sir Samuel Evans when goods in transit to the United States were seized and released against payment into court of varying sums of money, the court at that time satisfied itself as to the fact of American ownership. I venture to hope that having in mind that the obvious purpose of the recent formal correspondence between our two governments is to bring about the prompt settlement of outstanding cases without recourse to legal proceedings, you will be able to reconsider your statement of January 7 that it will be necessary for further application to be made to the court for direction as to the disposal of the funds.”

I have now received a reply dated the 10th instant in which the Procurator General thus expresses his views:—

³⁷ Not printed.

³⁸ Claim of Albert Lorsch & Co., Inc.

³⁹ See telegram no. 3510, Dec. 10, 1919, from the Ambassador in Great Britain, p. 632.

"I am directed by H.M. Procurator General to acknowledge the receipt of your letter of the 9th instant, relative to the terms upon which the goods detained under the Order in Council of the 11th March 1915 are to be released to American claimants.

I am to point out, that in the Note addressed by the Secretary of State for Foreign Affairs to the United States Ambassador on the 6th December last to which you refer, it was specifically stated that His Majesty's Government would, in proper cases, consent to an Order for release upon such terms as the Court might deem just, from which it was clear that in some cases it would be necessary for application to be made to the Court to decide these terms.

Where a claim has already been the subject of formal argument before the Court, the Procurator General is not in a position to deal with the matter, without the further directions of the President."

In regard to the foregoing I should like to point out that if the Procurator General contemplates assuming this position in regard to the great number of cases in which goods have been sold after having been seized by the Order in Council of March 11, 1915, it will simply mean recourse to the Prize Court in the old fashioned way by means of Counsel and with all the usual delays dependent upon legal processes in this country. It seems to me that the object of the correspondence between the Department of State and the Foreign Office was undertaken with a view to finding an easy and expeditious method of concluding claims of this character but I am very much afraid that we shall not be greatly assisted by the Procurator General in his present mood.

I have [etc.]

ROBERT P. SKINNER

841.115L89/7 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, January 17, 1920—1 p.m.

[Received January 17—1 p.m.]

Department's telegram of 16th regarding A. Lorsch.⁴⁰ Reports mailed on 9th⁴⁰ and 14th.⁴¹ Procurator General says Foreign Office agreement provides for releases "upon such terms as Court might deem just" and similarly that where claim has already been subject of formal argument he must take directions of President of Prize Court. I have asked him to take directions and to obtain instructions applicable to all similar matters thus facilitating informal settlements. Now awaiting his reply.

SKINNER

⁴⁰ Not printed.

⁴¹ *Supra*.

341.115L89/10 : Telegram

The Secretary of State to the Consul General at London (Skinner)

WASHINGTON, February 2, 1920—6 p.m.

Your January 17, 1 p.m.

Telegraph whether Procurator General has obtained instructions from President Prize Court applicable to all similar claims.

LANSING

341.115L89/11 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, February 5, 1920—11 a.m.

[Received 7:11 p.m.]

Department's February 2, 6 p.m. Procurator General replying to my request that he obtain instructions from the President of the Prize Court applicable to all American claimants states "directions of Prize Court can only be obtained upon formal application to Court as Procurator General has no access to the President other than that available to ordinary litigants. Steps are being taken in conjunction with solicitors acting in most appropriate cases to bring test case before the President at an early date." I shall endeavor to obtain views of the President himself without waiting for solicitors to act formally. Referring to Department's instruction number 3606 January 9th⁴² directing me to ascertain meaning of Procurator General in observing that "British Government has rights under the treaty of peace which cannot be disregarded". The rights referred to arise under article 297 and annex of peace treaty and similar purport in Austrian treaty article 249. Mr. Woods further states "practical difficulty is to decide whether property has passed and this is accentuated by fact that in hardly any case are documents produced which are necessary to enable this question to be decided."

SKINNER

300.115/20523 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, February 9, 1920—7 p.m.

127. Your 3510, December 10 4 p.m.

Consult Consul General regarding his February 5 11 a. m. and last paragraph despatch 9036 January 14. Inform Foreign Office this

⁴² Not printed.

Government hopes that an easy and expeditious method of settling these claims may be arranged at an early date without the necessity of recourse to the prize court by means of counsel and with usual delays incident to legal processes.

Endeavor to effect such general arrangement to save unnecessary expense and avoid overburdensome conditions in cases where principles involved are similar. Large number of claimants have been informed of agreement for release and it is important that arrangement should be made effective promptly.

LANSING

300.115/20654

The Consul General at London (Skinner) to the Acting Secretary of State

No. 9272

LONDON, March 2, 1920.

[Received March 13.]

SIR: I have the honor to refer to my telegram of the 28th. ultimo,⁴³ in reply to the Department's cabled enquiry of February 2, 1920, asking whether instructions had yet been received from the President of the Prize Court applicable to American claims, and to enclose herewith the complete text of the President's answer, in confirmation of the cabled abstract.

I am somewhat fearful that the optimistic hope of the President of the Prize Court that the Procurator General will be able by exchanging views with claimants, to dispose of the bulk of the outstanding cases without any hearing in Court, will prove illusory. The Procurator General, up to now, has clung tenaciously to every shadow of justification for the detention of goods, or their proceeds.

The Department will note that the arrangements described in the letter from the President of the Prize Court contemplate that release shall be operated "except in cases where the Court has made a declaration that the goods are enemy owned".

The Procurator General, thus far, has ignored the statement of Viscount Grey on March 15, 1915,⁴⁴ to the American Government that "they restrict their claim to stoppage of cargoes destined for or coming from enemy territory" and holds that seized goods, or their proceeds if "enemy owned" according to the law of Prize (or so pronounced by the Prize Court) are not releasable although they may be neutral property according to municipal law.

⁴³ Not printed.

⁴⁴ See telegram no. 1798, Mar. 15, 1915, from the Ambassador in Great Britain, *Foreign Relations*, 1915, supp., p. 143.

He is asking for a decision from the Prize Court in "selected test cases" involving particularly the claims of the American Bead Company, C. Bruno and Company, and others, cases which formed the subject of a Prize Court judgment on December 19 [18], 1916.

I am enclosing a copy of this judgment⁴⁵ from which it will be seen that the late President of the Prize Court considered that "the passing of property shipped on the seas during war is regarded by the International Law from a wholly different standpoint from that adopted by that law or by the Municipal Law in time of peace", and he reached the conclusion that "the goods were enemy property as well as of enemy origin".

It is my understanding that the goods of the American Bead Company, and of practically every other American claimant in the same circumstances are American goods according to municipal law, and consequently, there really should be no delay, or Prize Court proceedings, in bringing about their release.

In view of Lord Curzon's note to the Department on this matter,⁴⁶ and the liberal frame of mind of the President of the Prize Court, himself, it does not seem to me at all necessary that the Procurator General should insist upon going into Court for a further decision as to the meaning of enemy owned goods, and it would seem to me possible that administrative action might result in the release of these goods which are clearly American under municipal law, and which, in any circumstances, would be released on the filing of a bond with the British authorities by which they would be abundantly protected against any subsequent claim.

However, in the circumstances, it seems improbable that the Procurator General will abate any of his requirements unless, of course, as the result of American pressure he should be instructed to do so.

I should like to remark in closing that in the *Stigstad* case which went to the Privy Council on October 15, 1918, and which grew out of a seizure in 1915 of Swedish iron ore destined for Germany where it would have been converted no doubt into munitions of war, the goods were looked upon as neutral owned, and upon sale in this country, the entire proceeds were paid over at once to the claimants.

It is extremely difficult to reconcile this conduct of the Prize Court authorities, in a case arising during the first critical period of the war, with their much more rigid attitude towards American goods now that the war is over, and notwithstanding their expressed desire that outstanding cases shall be liquidated expeditiously and with the least formality possible.

I have [etc.]

ROBERT P. SKINNER

⁴⁵ See *ibid.*, 1916, supp., p. 494, for an extract from the judgment.

⁴⁶ See telegram no. 3510, Dec. 10, 1919, from the Ambassador in Great Britain, p. 632.

[Enclosure]

*The Secretary to the President of the British Prize Court (Price)
to the American Consul General at London (Skinner)*

[LONDON,] 27 February, 1920.

SIR: With further reference to your letter of the 10th instant, I am now able to inform you that the President has made enquiry of His Majesty's Procurator General upon the subject of the release of American owned goods detained under the Order in Council of March 11th 1915 to which your letter relates.

The Procurator General informs the President as follows:—

"The Procurator General is prepared to release without application to the Court all American goods or their proceeds in respect of which a decree of detention has been made by the Prize Court, except in cases where the Court has made a declaration that the goods are enemy owned. In such cases it is considered that any application for release should be made to the Prize Court. It may be that after the President has given a decision upon a few selected test cases other releases may be made without the necessity of applying to the Court. It is of course essential that the documents submitted to the Procurator General in support of applications for release should be complete in every particular."

You will be aware, the President thinks, that his duty as the Judge having jurisdiction in Prize is to deal judicially with claims in Prize as and when they are brought before him in the usual course of Prize procedure, but as your letter recognises the President regards it as a matter of great importance that all possible despatch shall be used in the decision of outstanding questions relating to property still under the control of the Court.

He hopes that by exchange of views between the Procurator General and the claimants interested in the goods, the bulk of the outstanding cases may be disposed of without the necessity of any hearing in Court. The suggestions of the Procurator General as to the best means of achieving this object will no doubt receive your consideration.

I am to add further that as soon as, and whenever questions of difference between the Procurator General and Claimants or their Representatives are definitely formulated, he will use all means at his disposal to ensure that such questions shall be promptly determined.

Believe me [etc.]

WILFRED PRICE

300.115/20659 : Telegram

The Chargé in Great Britain (Wright) to the Acting Secretary of State

LONDON, March 19, 1920—6 p.m.

[Received March 19—2:15 p.m.]

480. Your 127, February 9, 7 p.m. In reply to the Ambassadors' representations the Foreign Office on March 17 furnished me with the following note:

"I had the honor to receive Mr. Davis's further note the 17th ultimo number 126 on the subject of the release of American owned goods which were originally detained under the order in council of March 11, 1915 and His Majesty's Procurator General to whom I duly communicated His Excellency's note now observes that in a considerable number of cases in which American claimants have asserted a claim to goods detained under that order in council, the Prize Court has already found that the goods are enemy property. In such cases the question of release does not appear to arise as such finding is inconsistent with American ownership. In cases, however in which no such declaration has been made, the Procurator General is at all times prepared to give effect to the assurance given in the note which I had the honor to address to His Excellency on December 6th last as soon as documentary proof of title is submitted to him."

The text of the Foreign Office note of December 6th was telegraphed to Department as number 3510, December 10, 4 p.m.

WRIGHT

441.11C881/-

The Second Assistant Secretary of State (Adee) to the Chargé in Great Britain (Wright)

No. 646

WASHINGTON, March 23, 1920.

SIR: Referring to your telegram No. 480 of March [19,] 1920, relative to the release of American owned goods detained by the British authorities during the war, the Department encloses herewith for your consideration a copy of a letter dated March 17, 1920, received from the Crucible Steel Company of America, of Pittsburgh Pennsylvania,⁴⁷ relative to its claim for the return of £760.4.6, paid to the British Government for a consignment consisting of 87,708 pounds of steel forwarded on April 24, 1915, by their Agents to Liverpool on the British vessel *Den of Airlie*. It appears that the British authorities seized these goods as prize, and that the claimant

⁴⁷ Not printed.

purchased them for the above amount when they were sold by the Prize Court. It further appears that a suit was brought in the Prize Court to recover the proceeds of the sale of this steel, but that the Court decided adversely on the grounds that the goods were destined for an enemy country; that they were the property of enemies, and that they were found on a British vessel. As the British Government has agreed to release goods which were intended for Germany and which were detained in England, this concern is of the opinion that the proceeds of the sale of these goods should be returned to them, in lieu of the goods.

In this connection the Department encloses herewith a copy of a despatch, dated March 2, 1920, received from the American Consul General at London, England, dealing with the detention of American owned goods by the British Government during the war.⁴⁷ Your attention is invited to the statement of the Consul General that "the arrangements described in the letter from the President of the Prize Court contemplate that release shall be operated 'except in cases where the Court has made a declaration that the goods are enemy owned'". The Procurator General, thus far, has ignored the statement of Viscount Grey on March 15, 1915,⁴⁸ to the American Government that "they restrict their claim to stoppage of cargoes destined for or coming from enemy territory" and holds that seized goods, or their proceeds if "enemy owned" according to the law of Prize (or so pronounced by the Prize Court) are not releasable although they may be neutral property according to municipal law.

You are instructed to investigate this matter, and if you see no objection thereto, you will bring the matter to the attention of the Foreign Office with a view to ascertaining whether the British authorities will now release the funds in question. You will also inquire whether the British Government will refuse to release American owned goods seized under the Order in Council of March 11, 1915, on the ground that they may be considered enemy owned under a technical interpretation of Prize law, when in fact they are American property in accordance with applicable principles of municipal law and the loss involved will fall on the American owners.

You will submit a detailed report regarding this matter to the Department.

I am [etc.]

ALVEY A. ADEE

⁴⁷ See p. 636.

⁴⁸ See telegram no. 1798, Mar. 15, 1915, from the Ambassador in Great Britain, *Foreign Relations*, 1915, supp., p. 143.

300.115/20734 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, June 4, 1920—6 p.m.

[Received June 4—2:15 p.m.]

In Prize Court yesterday President dealt with claims arising from reprisals order of March 11th, 1915, ordering those who appeared as claimants to select three cases and plead within a period of 14 days, 7 days later Crown's answer to be delivered, trial to follow speedily to wind up outstanding business.

SKINNER

300.115/20757 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, July 15, 1920—5 p.m.

[Received 6:56 p.m.]

Department's telegram of 14th.⁴⁹ Test cases *United States* and other vessels goods seized under orders Council March 11th, 1915, heard yesterday in Prize Court. Claimants asserted Court had to apply municipal law, Crown did not oppose release and said finding of enemy property applied to date of seizure while today claimants might be commercially entitled to release. If Court was satisfied that property was in claimants at time of peace, Crown waived its right to declaration of enemy property. Crown contended releases should be subject to payment of Crown costs and expenses of detention including insurance. President announces he intends to order release of proceeds but desires to consider form of his order. Considered judgment hoped for Tuesday next. All American claimants who have deposited funds against detained goods should now apply for reimbursement.

SKINNER

300.115/20763

The Consul General at London (Skinner) to the Secretary of State

No. 9946

LONDON, July 23, 1920.

[Received August 6.]

SIR: I have the honor to refer to my telegram of July 22 [23], 1920,⁴⁹ reporting a very important decision of the Prize Court relating chiefly to American goods held under the Order in Council of

⁴⁹ Not printed.

March 11, 1915, and to transmit herewith prints of the judgment in question, as reported in the press.

The Department will note that goods are to be released, or deposits made in the course of the war in exchange for the goods are to be released, subject to the payment of expenses properly incurred and cost of insurance.

The Procurator General is now empowered to grant release in particular cases where the title of the claimant is established to his reasonable satisfaction.

I am prepared, therefore, to receive instructions from the Department, or applications from particular claimants in respect of their goods. Naturally, the cases already before me will be re-examined and dealt with in the light of the new situation.

A full transcript of the proceedings of the Prize Court leading up to the decision, will be forwarded as soon as prints can be obtained and put in order.

I have [etc.]

ROBERT P. SKINNER

[Enclosure]

Press Report of the Judgment, July 22, 1920, of the Prize Court in the Cases of the "United States" and Other Vessels

Judgment was delivered in these test actions, which were brought before the Court under a recent order of the President to decide how goods (or their proceeds) which were seized under the Reprisals Orders in Council and were ordered to be detained until the conclusion of peace, on the ground that they were goods of enemy origin and/or enemy property, should be disposed of.

The Crown did not oppose the release of the goods if the Court were satisfied that they now belonged to neutrals, and it invited the Court to lay down principles on which subsequent cases should be dealt with.

Mr. Raeburn, K.C., Mr. L. F. C. Darby, and Mr. Wilfrid Price appeared for the American claimants; the Attorney-General (Sir Gordon Hewart, K.C.), the Solicitor-General (Sir Ernest Pollock, K.C.), and Mr. James Wyllie for the Procurator-General.

JUDGMENT

The PRESIDENT, in his judgment, said that whether the matter was considered generally under the Order in Council, or in the light of the practice of the Court in prize, the terms on which it was just that these goods should be released were, in his view, terms of payment by the claimants of the expenses properly and necessarily incurred by the Marshal in the handling of their parcels. As to in-

insurance, in ordinary circumstances captured goods in the custody of the Marshal under a claim of condemnation did not bear the expenses of insurance, where they had not been incurred by order of the Court or at the request of the claimants. That practice resulted from the relative positions of the captor and the claimant with regard to the property in the goods, and from the obligations properly belonging to the Marshal. Goods held by the Marshal for an owner, who by his own act, had subjected his property to detention seemed to him, however, to be subject to other considerations. No captor had an interest in them. The Marshal was charged with their safe-keeping for the sole purpose of eventual restitution. He had incurred expenses of insurance on a system recognized in the Registry, with the result that from time to time various claimants had received policy moneys for goods which, without negligence, had been destroyed and on which they would otherwise have suffered a total loss. Insurance was a wise and almost indispensable precaution in these cases. In his opinion it was just that the cost of the insurance should be borne by the owners of the goods, and he directed that they should be so borne.

Outside the main question of expenses, he had been asked by the Crown for some expression of opinion about the conditions under which detained goods should ordinarily be released, and in particular about proofs of ownership to be required and the precautions which were proper to avoid claims by persons who were not now on the scene. He did not think it necessary to say more than that the Procurator-General was under no obligation to consent on his own responsibility to the release of goods where the title of the claimant was not established to his reasonable satisfaction.

The order proper to be made in each of the cases before the Court was an order for restitution to the several claimants on payment in each case of the expenses properly incurred, including costs of insurance, the amount of such expenses in case of dispute to be determined in the Registry.

Solicitors:—Messrs. Thos. Cooper and Co. for the claimants; the Treasury Solicitor for the Procurator-General.

441.11C881/6

The Chargé in Great Britain (Wright) to the Secretary of State

[Extract]

No. 3441

LONDON, September 17, 1920.

[Received September 28.]

SIR: With reference to the Department's instruction No. 646 of March 23, 1920 (File No. So 441.11 C 881), and to subsequent corre-

spondence concerning the release of American owned goods detained by the British authorities during the war, I have the honor to transmit herewith, for the information of the Department, a copy of the Note, No. T 9938/115/350 of September 15, 1920, received from the Foreign Office, and upon which my telegram No. 1398 of September 16, 5 p.m. was based.⁵¹

[Here follows summary of note printed as enclosure hereto.]
I have [etc.] J. BUTLER WRIGHT

[Enclosure]

*The British Secretary of State for Foreign Affairs (Curzon) to the
American Chargé (Wright)*

No. T 9938/115/350

LONDON, September 15, 1920.

SIR: I had the honour to receive the United States Ambassador's note of April 15th last (No. 252) relative to goods detained under the Order-in-Council of March 11th, 1915. In that note His Excellency refers to the claim of the Crucible Steel Company of America in the case of a consignment of steel seized on the British S.S. *Den of Airlie*, and asks whether it is the intention of His Majesty's Government to refuse the release of goods seized under the Order-in-Council where they may be considered enemy owned under Prize Law, while at the same time under municipal law they are American property.

2. So far as regards the consignment seized on the S.S. *Den of Airlie*, I would observe that these goods did not come within the scope of the Order-in-Council of March 11th, 1915, but were condemned by the Prize Court as enemy property seized on board a British vessel, in accordance with the ordinary prescriptions applicable to such cases. No question therefore arose in this connection of the application of the Order-in-Council of March 11th, 1915.

3. His Majesty's Government have however given their most careful consideration to the views expressed by the United States Government as to the treatment of goods detained under the Order-in-Council which might under a strict interpretation of law be held to be enemy property and I have now the honour to inform you that in a series of test cases arising out of consignments seized in the S.S. *United States* which were recently brought before the Prize Court, the Attorney-General, speaking on behalf of the Crown, intimated that, whatever might be its legal rights in the matter, the Crown did not press for the application of the rules of international law in deciding whether the goods were enemy property within the meaning of the Order-in-Council, but was content to

⁵¹ Telegram not printed.

accept the test of ordinary commercial law. The cases were accordingly dealt with by the Court on this footing and decrees made for the release of the goods or the proceeds of their sale.

4. It is proposed to deal with the remaining cases of goods detained under the Order-in-Council upon the same basis, and where His Majesty's Procurator-General is satisfied that by commercial law the property had become American at the time of seizure, and that no claim can be made upon His Majesty's Government by any other claimant, he will be prepared to file consents to orders for release upon the same terms as in the case above mentioned. In cases in which there is an element of doubt or the amount involved is considerable, or where other reasons exist which lead the Procurator-General to consider that the interests of the Crown require it, it is proposed to refer the claimants to the Prize Court for such order as it may deem just to make in all the circumstances of the case.

5. These concessions are made by His Majesty's Government upon the assumption that they will be accepted as a settlement of all questions which have arisen with regard to the Order-in-Council in question, and must not be taken as implying any doubt or admission whatever with regard to its validity.

I have [etc.]

(For the Secretary of State)

ERIC PHIPPS

441.11C881/6

*The Acting Secretary of State to the Ambassador in Great Britain
(Davis)*

No. 1103

WASHINGTON, December 27, 1920.

SIR: Reference is made to your despatch No. 3441 of September 17, 1920, concerning the release of American owned goods detained by the British authorities during the war, with which you enclosed a copy of a note dated September 15, 1920 received from the Foreign Office regarding this matter. In the fifth paragraph of this note it is stated that the concessions made therein by the British Government regarding the British Order-in-Council of March 11, 1915 are made upon the assumption that they will be accepted as a settlement of all questions which have arisen with regard to the Order-in-Council in question and must not be taken as implying any doubt or admission whatever with regard to its validity.

You are requested to inform the Foreign Office that while this Government might be willing to accept the concessions made by the British authorities as a settlement of some of the questions which

have arisen with regard to the Order-in-Council of March 11, 1915, it cannot accept these concessions as a settlement of all questions which have arisen or may arise with regard to this Order-in-Council.

I am [etc.]

For the Acting Secretary of State:

VAN S. MERLE-SMITH

441.11/18

*The Secretary of State to President Wilson*⁵²

THE PRESIDENT: The undersigned, the Secretary of State, has the honor to submit herewith a report, with a view to its transmission to the Senate if the President approve thereof, in response to Senate Resolution 438⁵³ relating to complaints of American citizens growing out of interference with American commerce by British authorities. The Resolution reads as follows:

"RESOLVED, That the President is hereby requested, if not incompatible with the public interest, to inform the Senate whether any, and if any, what measures have been taken relating to claims or complaints of citizens of the United States against the British Government growing out of restraints on American commerce and the alleged unlawful seizure and sale of American ships and cargoes by British authorities during the late war, and to communicate to the Senate a copy of any instructions which may have been given by the Executive to the American Ambassador at London on the subject on and after October 21, 1915,⁵⁴ and also a copy of any correspondence which may have passed between this Government and that of Great Britain in relation to that subject since that time."

In making representations to the British Government regarding the interferences with American commerce, the Government of the United States continued to assert the principles laid down in the note of October 21, 1915, referred to in the Resolution of the Senate.

The Department of State endeavored to prevent the improper seizure of vessels and cargoes and to obtain the release of such as were in its opinion improperly detained. Following the entry of the United States into the war, the Department succeeded in having consummated a general plan for the release of certain classes of goods which had not been sent to the Prize Court. It was made clear, however, in connection with negotiations for this arrangement that, although the British Government should agree to effect certain releases, the Government of the United States could not undertake to abandon the attitude taken by it with respect

⁵² Transmitted to the Senate, Mar. 3, 1921.

⁵³ Of Jan. 26, 1921.

⁵⁴ See Department's instruction of Oct. 21, 1915, to the Ambassador in Great Britain, *Foreign Relations*, 1915, supp., p. 578.

to British measures which it regarded as unwarranted, or to withhold protection from American citizens whose rights appeared to have been infringed by such measures.

Early in the war the British Government declared their intention to make due compensation to persons whose ships or cargoes were wrongfully detained by British authorities. From communications subsequently received from the British Government it appeared that they took the position that all claims for such compensation should, in the first instance, be submitted to the British Prize Court, and that diplomatic action should be taken in behalf of interested persons only after such local remedies in the courts had been exhausted and a *prima facie* denial of justice had been shown. The Government of the United States, without asserting that American citizens should not seek remedies in prize courts in cases properly cognizable by such tribunals, made clear its view that complaints of American citizens growing out of interference with their commerce which had formed the basis of remonstrance by this Government were on an entirely different footing than that class of complaints for the redress of which persons, who are themselves, or whose property is, within the jurisdiction of a foreign country, are required under a generally accepted rule of international law to resort to the appropriate tribunals of such country.

For obvious reasons claims for compensation were not pressed against the British Government during the war. In a communication dated August 18, 1920,⁵⁵ inquiry was made if the British Government were prepared to enter into an arrangement for a reciprocal adjustment of claims growing out of acts of American and British authorities incident to the war. No final reply has been received from the British Government to that communication.

The language of the Resolution of the Senate is very broad. It is understood, however, that the purpose of it is to obtain information concerning the general character of instructions addressed to the American Embassy at London on the subject of interference with American ships and cargoes during the war and concerning the attitude of the British Government with respect to this subject as disclosed by communications received from them by the Government of the United States. Specific references to particular losses sustained by American citizens have been avoided, since it seems probable that such persons might desire to avoid publicity at this time in relation to these matters. The attached compilation⁵⁶ has therefore been

⁵⁵ *Post*, p. 648.

⁵⁶ Compilation not printed; the most important papers listed are printed *supra*, and also in *Foreign Relations*, 1915, supp., p. 578, and in *Foreign Relations*, 1916, supp., p. 368.

limited to certain correspondence which it appears will serve the purposes of the Senate's Resolution.

Respectfully submitted,

BAINBRIDGE COLBY

WASHINGTON, *March 3, 1921.*

CLAIM AGAINST THE UNITED STATES ARISING OUT OF THE
DELAY IN DELIVERING THE "IMPERATOR" AND OTHER EX-
GERMAN SHIPS;⁵⁷ PROPOSAL OF THE UNITED STATES FOR
CONCURRENT EXAMINATION OF AMERICAN CLAIMS AGAINST
GREAT BRITAIN

862.85/1189

The British Ambassador (Geddes) to the Secretary of State

No. 436

WASHINGTON, *July 15, 1920.*

SIR: With reference to Mr. Polk's note of December 26th, 1919,⁵⁸ and to previous correspondence between the State Department and this Embassy on the subject of the delay in delivering the former German vessels to the representatives appointed by His Majesty's Government to receive them, I have the honour, on instructions from my Government, to prefer a claim against the United States Government in respect of (a) cost of crews' wages and subsistence expenses in America, (b) cost of, and time required for reconditioning these vessels.

I am instructed to say that, provided the United States Government are prepared to meet the claim now to be presented under these heads, His Majesty's Government on their part are ready to renounce their claim for loss of earnings and other losses.

The amount claimed under heading (a) is estimated at some \$720,000. This provisional claim will, however, be replaced by a fully certified estimate so soon as all accounts are received.

In the meantime I should be glad to be able to inform my Government that the United States Government recognize in principle their liability under the above heads.

I have [etc.]

A. C. GEDDES

862.85/1189

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *August 18, 1920.*

EXCELLENCY: I have the honor to refer to your note of July 15, 1920, which has had our careful consideration. You mention therein

⁵⁷ For correspondence concerning the delay in delivering the *Imperator* and other ships, see pp. 542 ff.

⁵⁸ *Ante*, p. 578.

the previous correspondence respecting the delay in delivering certain ex-German vessels to representatives of the British Government and the claim, which you describe as "provisional", against the Government of the United States, "in respect of (a) cost of crews' wages and subsistence expenses in America, and (b) cost of and time required for reconditioning these vessels."

I note that the provisional claim will "be replaced by a fully certified estimate so soon as all accounts are received."

While this Government is not aware of its liability for the losses to which you refer, it regrets that such losses have occurred, and will be pleased to receive at your convenience a statement of the principle upon which you predicate the liability of this Government in order that appropriate consideration may be given the claim without delay.

In this connection I may add that it would seem most logical and appropriate that concurrently with the examination of the above claim to be presented by your Government, a procedure should be adopted for the examination and settlement of claims of this Government against the British Government, arising from numerous detentions of vessels and interrupted voyages which have been the subject of correspondence between the British Government and the Government of the United States.⁵⁹ During the period of the neutrality and subsequent belligerency of this Government, it did not seem appropriate to press for an adjustment of claims for losses resulting from such detentions, and I should be pleased to know if His Majesty's Government now desires to initiate suitable proceedings for the mutual adjustment and satisfaction of all such claims.⁶⁰

Accept [etc.]

BAINBRIDGE COLBY

EXPLOITATION OF PETROLEUM IN PALESTINE AND MESOPOTAMIA ⁶¹

Representations by the United States on behalf of Existing American Interests in Palestine—San Remo Agreement, April 24, 1920—Exposition by the Government of the United States of Its Views on the Obligations of the British Government as Mandatory to Apply the Principle of Equal Treatment to the Nationals of the United States

467.11 St 25/42 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, February 4, 1920—4 p.m.

104. American Consul Bagdad states that he requested permission E. S. Sheffield of Standard Oil investigate coal lands Mesopotamia

⁵⁹ See pp. 601 ff.

⁶⁰ Evidently no reply was ever received; see report of the Secretary of State to the President, Mar. 3, 1921, p. 646.

⁶¹ Continued from *Foreign Relations*, 1919, vol. II, pp. 250-262.

same as Shell representative. Civil Commissioner informs Consul Shell representatives are employed by British Government and have been sent to Kurdis[tan] on behalf of civil administration. Consul's opinion is that Shell will be able to obtain desired information regarding oil lands refused us. Department requests that you bring matter to attention British Government. American High Commission Constantinople wired January 7 that news had been received from Manchester, England, that two Lancashire cotton experts are prospecting in Mesopotamia raising growing cotton for England in that country. United States without agreeing to general principle embodied in British policy regarding activities relative to obtaining concessions in occupied territory, outlined in your 3236 October 14,⁶⁰ desires assurances from British Government that it will take effective steps to prevent more favorable treatment directly or indirectly to British or other subjects pending settlement of general question. We feel employment of Shell representatives by civil administration constitutes discrimination in effect. Remind British Government of the general restrictive exclusive nature of its oil policy and growing adverse criticism of it in United States. Exclusion or discrimination in Palestine or Mesopotamia would probably cause criticism of British policy.

LANSING

467.11 St 25/50 : Telegram

*The Acting Secretary of State to the Chargé in Great Britain
(Wright)*

WASHINGTON, March 17, 1920—7 p.m.

280. Your 3432 November 22, 3 p.m.⁶¹

Department has examined Standard Oil Company permits and concessions in Palestine and finds (1) that in respect of all its claims it has certain vested rights under the Turkish law; (2) that Great Britain in its temporary occupation of Palestine may legally enjoin the acquisition of further vested rights but must by virtue of its position as quasi trustee recognize and protect the vested rights of the Standard Oil Company already existing; and (3) Great Britain as trustee cannot legally allow discrimination in favor of her own or other nationals.

There is apparently no legal ground for renewing representations to obtain from British Government permission to explore during military occupation.

It is believed important, however, to maintain pressure so Foreign Office will realize vital concern of this Government and

⁶⁰ *Foreign Relations*, 1919, vol. II, p. 257.

⁶¹ *Ibid.*, p. 260.

understand that during negotiation Turkish treaty the United States will look to the British Government to see that throughout such negotiations the vested rights of its nationals under the Turkish law are protected and guaranteed. Make representations to Foreign Office to this effect and further that the United States Government feels justified in requesting to be kept fully informed particularly regarding provisions of Turkish treaty bearing on exploitation of resources, and any other understanding that might affect future activities of American citizens in former Turkish territories. While naturally no suspicion can be expressed regarding good faith of British during military occupation, if feeling arose in United States that American interests had been discriminated against in Turkish treaty or in mandates, relations of two countries would be injured and American participation in maintenance of international settlement still further complicated. Give Thomas⁶² whatever information you deem advisable regarding your representations and British reply.

POLK

800.6363/143

The Ambassador in Great Britain (Davis) to the Secretary of State

No. 3061

LONDON, June 18, 1920.

[Received June 28.]

SIR: I have the honor to refer to the Department's telegram No. 633 of June 15, 3 p.m.,⁶³ in the matter of the Mesopotamian oil situation, and to state that in accordance with instruction contained therein I have today communicated with the Foreign Office, withdrawing my original Note No. 317 of May 12, 1920,⁶⁴ and substituting, under identic date and number, an amended Note as per copy enclosed herewith.

I have [etc.]

JOHN W. DAVIS

[Enclosure]

The American Ambassador (Davis) to the British Secretary of State for Foreign Affairs (Curzon)

No. 317

LONDON, May 12, 1920.

MY LORD: Pursuant to the instructions of my Government, I have the honour to inform Your Lordship that the Government of the

⁶² L. I. Thomas, representative of the Standard Oil Co.

⁶³ Not printed.

⁶⁴ Presented to the Foreign Office, in obedience to instructions of May 10, which are not printed.

United States has been officially [*unofficially*]⁶⁵ informed that the Mandates for Mesopotamia and Palestine have been assigned to Great Britain; the Mandate for Mesopotamia being given subject to friendly arrangement with the Italian Government regarding economic rights.

The Government of the United States desires to point out that during the Peace negotiations at Paris leading up to the Treaty of Versailles, it consistently took the position that the future Peace of the world required that as a general principle any Alien territory which should be acquired pursuant to the Treaties of Peace with the Central Powers must be held and governed in such a way as to assure equal treatment in law and in fact to the commerce of all nations. It was on account of and subject to this understanding that the United States felt itself able and willing to agree that the acquisition of certain enemy territory by the victorious powers would be consistent with the best interests of the world. The representatives of the principal Allied Powers in the discussion of the Mandate principles expressed in no indefinite manner their recognition of the justice and far-sightedness of such a principle and agreed to its application to the Mandates over Turkish territory.

The Administration of Palestine and Mesopotamia during the interim period of military occupation has given rise to several communications between the United States Government and that of Great Britain relative to matters that had created the unfortunate impression in the minds of the American public that the Authorities of His Majesty's Government in the occupied region had given advantage to British oil interests which were not accorded to American Companies and further that Great Britain had been preparing quietly for exclusive control of the oil resources in this region. The impression referred to has, it is believed, been due in large part to reports of authoritative statements regarding the general Oil Policy of Great Britain and of actual work such as the construction of pipe lines, railways and refineries, the operations of certain oil wells, the acquisitions of dockyards, cotton investigations and permitted researches by certain individuals whose activities, though stated to be solely in behalf of the civil Administration, were attended by circumstances which created the impression that some benefit at least would accrue to British oil interests.

Certain of the occurrences above referred to have been explained by his Majesty's Government as due to military necessity, and certain others as due to laxity on the part of local authorities. It must be realized, however, that it has been difficult for the American people

⁶⁵ The correction was authorized by a telegram from the Department, dated July 12, 1920, 4 p.m. (file no. 800.6363/148a).

to reconcile all of these reports with the assurance of His Majesty's Government that "the provisional character of the military occupation does not warrant the taking of decisions by the occupying power in matters concerning the future economic development of the country", and that the invitation [*initiation*] of new undertakings and the exercise of rights under concessions would be prohibited. The United States Government has confidence in the good faith of His Majesty's Government in attempting to carry out the assurances given by His Majesty's Foreign Office, but desires to point out that the considerations above referred to indicate the difficulty in insuring the local execution of such undertakings and the necessity for careful measures to guarantee the practical fulfillment of the principles expressed and agreed to during the peace negotiations at Paris.

With this thought in mind, the Government of the United States ventures to suggest the following propositions, which embody or illustrate the principles which the United States Government would be pleased to see applied in the occupied or mandated regions and which are submitted as furnishing a reasonable basis for discussions. In the event of such discussions it would be assumed that the legal situation as regards economic resources in the occupied or mandated regions would remain *in statu quo* pending an agreement:

(1) That the Mandatory Power strictly adhere and conform to the principles expressed and agreed to during the peace negotiations at Paris and to the principles embodied in Mandate "A" prepared in London for adoption by the League of Nations by the Commission on Mandatories.

(2) That there be guaranteed to the nationals or subjects of all nations treatment equal in law and in fact to that accorded nationals or subjects of the Mandatory Power with respect to taxation or other matters affecting residence, business, profession, concessions, freedom of transit for persons and goods, freedom of communication, trade, navigation, commerce, industrial property, and other economic rights or commercial activities.

(3) That no exclusive economic concessions covering the whole of any Mandated region or sufficiently large to be virtually exclusive shall be granted and that no monopolistic concessions relating to any commodity or to any economic privilege subsidiary and essential to the production, development, or exploitation of such commodity shall be granted.

(4) That reasonable provision shall be made for publicity of applications for concessions and of Governmental Acts or Regulations relating to the economic resources of the Mandated territories; and that in general regulations or legislation regarding the granting of concessions relating to exploring or exploiting economic re-

sources or regarding other privileges in connection with these shall not have the effect of placing American citizens or companies or those of other nations or companies controlled by American citizens or nationals of other countries at a disadvantage compared with the nationals or companies of the Mandate nation or companies controlled by nationals of the Mandate nation or others.

The fact that certain concessions were granted in the mandated regions by the Turkish Government is, of course, an important factor which must be given practical consideration. The United States Government believes that it is entitled to participate in any discussions relating to the status of such concessions not only because of existing vested rights of American citizens, but also because the equitable treatment of such concessions is essential to the initiation and application of the general principles in which the United States Government is interested.

No direct mention has been made herein of the question of establishment of monopolies directly or indirectly by or in behalf of the Mandatory Government. It is believed, however, that the establishment of monopolies by or in behalf of the Mandatory Government would not be consistent with the principles of trusteeship inherent in the Mandatory idea. His Majesty's Government has stated its conception of the necessity for the control of oil production in these territories in time of national emergency. The Government of the United States does not intend at present to suggest arrangements that shall extend to any consideration not included in an enlightened interpretation of what constitutes its legitimate commercial interests. The question of control in times of national emergencies of supplies which may be deemed essential by Great Britain is a subject which the United States Government deems a matter for separate discussion.

The Government of the United States realizes the heavy financial obligations which will arise in connection with the administration of the Mandatory. It believes, however, that any attempt toward reimbursement by the adoption of a policy of monopolization or of exclusive concessions and special favours to its own nationals, besides being a repudiation of the principles already agreed to would prove to be unwise even from the point of view of expediency both on economic and political grounds. It also believes that the interests of the world as well as that of the two respective countries can best be served by a friendly co-operation or a friendly and equal competition between the citizens of the two countries and citizens of other nationalities.

The Government of the United States would be glad to receive an early expression of the views of His Majesty's Government, especially in order to reassure public opinion in the United States.

I have the honour further to acquaint Your Lordship that this Note is not designed by way of reply to the Allied Note from San Remo,⁶⁶ which will be answered separately.

I have [etc.]

JOHN W. DAVIS

800.6363/157

The Ambassador in Great Britain (Davis) to the Secretary of State

No. 3193

LONDON, July 26, 1920.

[Received August 10.]

SIR: With reference to my telegram No. 1113 of the 24th instant,⁶⁷ I now have the honor to transmit herewith, for the information of the Department, five copies of the Anglo-French Oil agreement, which is referred to officially as the "Memorandum of Agreement between M. Philippe Berthelot, Directeur des Affaires Politiques et Commerciales au Ministère des Affaires Étrangères, and Professor Sir John Cadman, K.C.M.G., Director in Charge of His Majesty's Petroleum Department."⁶⁸

I have [etc.]

JOHN W. DAVIS

[Enclosure]

*Memorandum of Agreement at San Remo, April 24, 1920, between M. Philippe Berthelot, Directeur des Affaires Politiques et Commerciales au Ministère des Affaires Étrangères, and Professor Sir John Cadman, K.C.M.G., Director in Charge of His Majesty's Petroleum Department*⁶⁹

BY order of the two Governments of France and Great Britain, the undersigned representatives have resumed, by mutual consent, the consideration of an agreement regarding petroleum.

2. This agreement is based on the principles of cordial co-operation and reciprocity in those countries where the oil interests of the two nations can be usefully united. This memorandum relates to the following States or countries:—

Roumania, Asia Minor, territories of the old Russian Empire, Galicia, French Colonies and British Crown Colonies.

3. The agreement may be extended to other countries by mutual consent.

⁶⁶ Presumably the note transmitted to the Department in telegram no. 10, Apr. 27, from the Ambassador in Italy, p. 779.

⁶⁷ Not printed.

⁶⁸ The Department was informed of the substance of this agreement in a telegram dated May 3, 1920, from the Ambassador in France (file no. 800.6363/-108).

⁶⁹ British Command Paper, 675. Miscellaneous. No. 11 (1920).

4. *Roumania*.—The British and French Governments shall support their respective nationals in any common negotiations to be entered into with the Government of Roumania for—

(a.) The acquisition of oil concessions, shares or other interests belonging to former enemy subjects or bodies in Roumania which have been sequestered, e.g., the Steaua Romana, Concordia, Vega, &c., which constituted in that country the oil groups of the Deutsche Bank, and of the Disconto Gesellschaft, together with any other interests that may be obtainable.

(b.) Concessions over oil lands belonging to the Roumanian State.

5. All shares belonging to former enemy concessions which can be secured and all other advantages derived from these negotiations shall be divided, 50 per cent. to British interests and 50 per cent. to French interests. It is understood that in the company or companies to be formed to undertake the management and the exploitation of the said shares, concessions, and other advantages, the two countries shall have the same proportion of 50 per cent. in all capital subscribed, as well as in representatives on the board, and voting power.

6. *Territories of the Late Russian Empire*.—In the territories which belonged to the late Russian Empire, the two Governments will give their joint support to their respective nationals in their joint efforts to obtain petroleum concessions and facilities to export, and to arrange delivery of petroleum supplies.

7. *Mesopotamia*.—The British Government undertake to grant to the French Government or its nominee 25 per cent. of the net output of crude oil at current market rates which His Majesty's Government may secure from the Mesopotamian oilfields, in the event of their being developed by Government action; or in the event of a private petroleum company being used to develop the Mesopotamian oilfields, the British Government will place at the disposal of the French Government a share of 25 per cent. in such company. The price to be paid for such participation to be no more than that paid by any of the other participants to the said petroleum company. It is also understood that the said petroleum company shall be under permanent British control.

8. It is agreed that, should the private petroleum company be constituted as aforesaid, the native Government or other native interests shall be allowed, if they so desire, to participate up to a maximum of 20 per cent. of the share capital of the said company. The French shall contribute one-half of the first 10 per cent. of such native participation and the additional participation shall be provided by each participant in proportion to his holdings.

9. The British Government agree to support arrangements by which the French Government may procure from the Anglo-Persian Company supplies of oil, which may be piped from Persia to the Mediterranean through any pipe-line which may have been constructed within the French mandated territory and in regard to which France has given special facilities, up to the extent of 25 per cent. of the oil so piped, on such terms and conditions as may be mutually agreed between the French Government and the Anglo-Persian Company.

10. In consideration of the above-mentioned arrangements, the French Government shall agree, if it is desired and as soon as application is made, to the construction of two separate pipe-lines and railways necessary for their construction and maintenance and for the transport of oil from Mesopotamia and Persia through French spheres of influence to a port or ports on the Eastern Mediterranean. The port or ports shall be chosen in agreement between the two Governments.

11. Should such pipe-line and railways cross territory within a French sphere of influence, France undertakes to give every facility for the rights of crossing without any royalty or wayleaves on the oil transported. Nevertheless, compensation shall be payable to the landowners for the surface occupied.

12. In the same way France will give facilities at the terminal port for the acquisition of the land necessary for the erection of depots, railways, refineries, loading wharfs, &c. Oil thus exported shall be exempt from export and transit dues. The material necessary for the construction of the pipe-lines, railways, refineries and other equipment shall also be free from import duties and wayleaves.

13. Should the said petroleum company desire to lay a pipe-line and a railway to the Persian Gulf, the British Government will use its good offices to secure similar facilities for that purpose.

14. *North Africa and other Colonies.*—The French Government will give facilities to any Franco-British group or groups of good standing, which furnish the necessary guarantees and comply with French laws, for the acquisition of oil concessions in the French colonies, protectorates and zones of influence, including Algeria, Tunis and Morocco. It should be noted that the French Parliament has resolved that groups so formed must contain at least 67 per cent. French interests.

15. The French Government will facilitate the granting of any concessions in Algeria which are now under consideration as soon as the applicants have complied with all the requirements of the French laws.

16. *British Crown Colonies*.—In so far as existing regulations allow, the British Government will give to French subjects who may wish to prospect and exploit petroliferous lands in the Crown Colonies similar advantages to those which France is granting to British subjects in the French colonies.

17. Nothing in this agreement shall apply to concessions which may be the subject of negotiations initiated by French or British interests.

18. This agreement had to-day been initialled by M. Philippe Berthelot and Professor Sir John Cadman, subject to confirmation by the French and British Prime Ministers respectively.

J. CADMAN

P. BERTHELOT

SAN REMO, *April 24, 1920.*

Confirmed:

D. LLOYD GEORGE

A. MILLERAND

April 25, 1920

800.6363/143 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, *July 26, 1920—7 p.m.*

785. Please present to the British Foreign Office a note in the sense of the following:⁷⁰

"Pursuant to the instructions of my Government, I have the honor to recall to Your Lordship the statement in my note No. 317 of May 12, 1920,⁷¹ that the Government of the United States would be glad to receive an early expression of the views of His Majesty's Government with respect to its economic policy in the mandate regions of the Near East.

"The Government of the United States appreciates that with respect to the inauguration of the administration of the mandate territories His Majesty's Government will consider it necessary to proceed with due deliberation. His Majesty's Government will recall, however, that the Government of the United States is primarily interested in the effective application to these territories of general principles already clearly recognized and adhered to during the peace negotiations at Paris, that such territories should be held and governed in such a way as to assure equal treatment in law and in fact to the commerce of all nations.

"It is the opinion of this Government that the treatment of the economic resources of the regions which will be held under mandate

⁷⁰ A note based on this instruction was addressed to the British Foreign Secretary under date of July 28, 1920.

⁷¹ *Ante*, p. 651.

by Great Britain or other nations involves a question of principle transcending in importance questions relating merely to the commercial competition of private interests or to control for strategic purposes of any particular raw material.

"The Government of the United States, in its note of May 12, 1920, suggested certain considerations that indicate the necessity for careful measures to guarantee the practical fulfillment of the principles expressed and agreed to during the peace negotiations at Paris. Unfortunately, occurrences subsequent to the submission of this note have not served to clarify the situation or to diminish the concern felt by the Government and people of the United States.

"The Government of the United States has noted the publication of an agreement between His Majesty's Government and the French Government making certain provisions for the disposition of petroleum produced in Mesopotamia and giving to France preferential treatment in regard thereto.⁷² It is not clear to the Government of the United States how such an agreement can be consistent with the principles of equality of treatment understood and accepted during the peace negotiations at Paris.

"This Government desires to record its view that such an agreement, in light of the position the British Government appears to have assumed toward Mesopotamia and its economic resources, will as a practical matter result in a grave infringement of the mandate principle, which was formulated for the purpose of removing in the future some of the principal causes of international differences.

"In the interest of a frank discussion of the whole subject, the Government of the United States desires further to call the attention of His Majesty's Government to the existence of reports to the effect that the officials charged with the administration of Tanganyika Territory have accorded privileges to British nationals that have not been accorded to the nationals of other countries.

"The Government of the United States desires to express anew the hope that in an early reply to the note of May 12, 1920, His Majesty's Government will find it possible to elucidate fully its policy regarding the mandated territories of the Near East and other regions."

COLBY

800.6363/145 : Telegram

The Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, July 30, 1920—4 p.m.

805. Department's 785, July 26, 1920.

Repeat to American Embassy at Paris, for oral transmission to Foreign Office of such parts as Ambassador considers advisable.

Include also your comments for Wallace in this regard.

COLBY

⁷² San Remo Agreement, *supra*.

887.77/330

The Consul General at Berlin (Coffin) to the Secretary of State

BERLIN, August 4, 1920.

[Received August 24.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction No. 810 of July 22nd [27th] 5 P.M.,⁷² and to refer to my telegram in reply, No. 918 of August 4th, 6 P.M.,⁷² with reference to the contract of the Anatolian Railway with the Ministry of the Civil List. As the Department will have understood from my report of June 21st,⁷³ the Ministry of the Civil List held from the Porte a concession covering the exploitation of the oil resources on the Civil List properties in the vilayets of Bagdad and Mossoul. On the basis of this concession the contract with the Anatolian Railway was made. This contract was subsequently contested by the Ministry of the Civil List on the ground that the Anatolian Railway had not fulfilled certain of its provisions, notably with respect to test borings. The matter was the subject of conversations and correspondence between the Railway Company and the Ministry of the Civil List and no determination of it appears to have been reached up to the time when, in 1908, the Turkish Revolution occurred and the Ministry of Finance, under the new regime, took over the "assets" of the Ministry of the Civil List. If I am correct in my recollection, the Ministry of the Civil List which was in fact a private business organization of Abdul Hamid's, disappeared very shortly after the new Turkish regime came into power. The question of the contract between the Anatolian Railway and the Civil List was brought up by the Railway Company with the Ministry of Finance, which adhered to the opinion of the Ministry of the Civil List that the contract was open to question because certain of its provisions had not been fulfilled. The matter seems to have been left open and I doubt very much whether the contract could have been enforced by the Railway Company if subsequent events had not altered the circumstances.

When the British and German interests began their conversations on the subject of Mesopotamian oil properties and succeeded in coming to an arrangement with the Turkish Government their claims were based on the concessions granted to the Anatolian and to the Bagdad Railways, on certain promises made by the Turks to the Nichols d'Arcy group (Anglo-Persian interests), and the oil concession held by the Ministry of the Civil List originally and, subsequently, by the Ministry of Finance.

⁷² Not printed.⁷³ Not found in Department files.

The validity of the concession held by the Civil List from the Sublime Porte and transmitted to the Ministry of Finance, and of the contract between the Anatolian Railway and the Civil List seems ultimately to have been admitted by the Turkish Government for two specific reasons: First, the Turkish Government was anxious to avoid any appearance of granting new concessions as they might be called upon to extend similar favors to Russian, American, and other interests; second, the Turkish mining law obligates prospective concessionnaires to follow the "permis de recherche" system, by which prospectors may locate mining or mineral property, then apply to the Turkish Government for a "permis de recherche", upon the issuance of which expert delegates are sent to the spot by the Turkish Government, the value of the discoveries ascertained, and a basis for a concession determined. This procedure applies to locations and may not cover an entire vilayet, under the Turkish mining law. The desired concession was to cover the properties in the vilayets of Mossoul and Bagdad, and, as the Sultan's rights in these vilayets covered practically the entire oil-bearing districts, the Turkish authorities held that the concession could not issue under the Turkish mining law unless it was invoked as a right of old standing.

I enclose herewith in original and translation copies of a letter from Prince Lichnowsky, German Ambassador in London, dated April 22, 1914, to the German Chancellor; a letter from the same to the same, dated April 23, 1914; a letter dated May 5, 1914, from the German Ambassador at Constantinople to the German Foreign Office;⁷⁴ and a letter from the Turkish Grand Vizier, dated June 28, 1914, to the German Ambassador at Constantinople, all bearing on the question of the rights of the Civil List concessions and the Anatolian Railway contract of 1904.

As stated in my telegram above referred to, the present attitude of the British Government seems to be based on the arrangements made by the Germans and British with the Turkish authorities in 1914, as set forth in the foregoing correspondence. The Department will note that, in his letter of June 28, 1914, the Grand Vizier states that the Ministry of Finance consents in principle to lease to the Turkish Petroleum Company the Civil List properties in Mesopotamia, the details to be arranged at a later date.

These details had been embodied in the draft of the concession which appears to have been made in London on March 4, 1914, of which I enclose a copy.⁷⁵ I never remember to have read a concession granted by the Turkish Government to a foreign interest with such far-reaching rights and privileges as this draft contains. This

⁷⁴ Three foregoing letters not printed.

⁷⁵ Not printed.

fact inclines me to believe the statement of the Deutsche Bank that the draft concession was intended to be a first demand, subject to modification should the two Governments be unable to obtain all of the rights desired. The concession was never formally issued as the negotiations were interrupted by the war.

It is advisable to point out that in the enclosed correspondence there appears to have arisen between the Germans and the British some question as to the validity of the contract of the Anatolian Railway with the Civil List. This is evidenced in the letter dated May 5, 1914, from the German Ambassador at Constantinople to the Foreign Office at Berlin, in which it is stated that at a conference in Constantinople between the respective interests it was decided to modify the project for the Convention by asking for the exploitation of the Civil List concession and that by so doing the British would "quiet their consciences" on the subject of acknowledging the rights of the Anatolian and Bagdad Railways as the basis for the new company's demands.

I also enclose herewith the Annual Statements of the Bagdad Railway from 1911-16 inclusive, and Statements of the Anatolian Railway from 1912-17 inclusive.⁷⁵

I have [etc.]

WM. COFFIN

[Enclosure—Translation]

The Turkish Grand Vizier (Said Halim) to the German Ambassador in Turkey (Wangenheim)

CONSTANTINOPLE, June 28, 1914.

MR. AMBASSADOR: In response to the note No. 985 which Your Excellency had the kindness to address to me under date of the 19th instant, I have the honor to inform you as follows:

The Ministry of Finance being substituted for the Civil List with respect to petroleum resources discovered, and to be discovered, in the vilayets of Mossoul and Bagdad, consents to lease these to the Turkish Petroleum Company, and reserves to itself the right to determine hereafter its participation, as well as the general conditions of the contract.

It goes without saying that the Society must undertake to indemnify, in case of necessity, third persons who may be interested in the petroleum resources located in these two vilayets.

Be pleased [etc.]

SAID HALIM

⁷⁵ Neither printed.

800.6363/163 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

LONDON, August 11, 1920—1 p.m.

[Received 8:20 p.m.]

1205. Your 474, May 10th, 4 p.m.⁷⁶ and 785, July 26th, 7 p.m. Following note dated August 9th, 1920, received from Foreign Office this morning.

"Your Excellency: I have the honor to refer to the notes dated the 12th May⁷⁷ and 28th ultimo which you were good enough to address to me and in which Your Excellency, referring to the mandates assigned to Great Britain had occasion to point out the general principles stated to be advocated by the United States Government and agreed to by the Allied Powers which should be adopted and applied to mandates over former Turkish treaty [territory].

2. You at the same time drew my attention to the existing vested rights of the United States citizens in this territory and to the impression which had arisen in the minds of the American people that the authorities of His Majesty's Government in the occupied territory of Mesopotamia had given advantages to British oil interests which were not granted to American companies and that His Majesty's Government were taking steps calculated eventually to bring the oil resources of Mesopotamia under their exclusive control. Instances of activities in various directions were quoted which had led to such conclusions. In view of this impression and of the necessity for the adoption of careful measures which would insure the practical fulfillment of the principles enunciate you put forward certain proposals which the United States Government would be glad to see applied in the mandated territories and explained the necessity for giving practical consideration to certain concessions in those regions granted by the Turkish Government in some of which United States citizens claimed vested rights.

3. The various points and suggestions which have formed the subject of your note have had the careful consideration of His Majesty's Government and I desire to furnish you in regard to them with the following observations.

4. I would wish at the outset to refer to the last sentence of the first paragraph of your note of May 12th, to the effect that the assignment to Great Britain of the mandate for Mesopotamia was made subject to a friendly arrangement with the Italian Government regarding economic rights and to state categorically that the assignment of the mandate has been made and accepted subject to no friendly arrangement whatever with any Government regarding economic rights.

5. I will next deal with the alleged action of the authorities of His Majesty's Government in the occupied territories in giving facilities to British oil interests which it is contended were denied to United States companies. The matter as you will recollect, has

⁷⁶ Not printed.

⁷⁷ *Ante*, p. 651.

formed the subject of previous communications between us and the hope was entertained that whatever doubts had existed in regard to the attitude of His Majesty's Government in the matter had been satisfactorily dispelled. The authoritative statements to which you have alluded in the third paragraph of your note of May 12th, and which would appear to be the basis for the reports that actual work has been undertaken in Mesopotamia are not founded on fact. Such reports would lead to the assumption that the development of the oil fields has already been taken in hand which is not the case. No pipe lines or refineries for dealing with Mesopotamian oil have been constructed. In fact the only existing work of this nature is a small refinery now in course of erection at Bagdad which was started for purely military requirements and is intended to deal with oil obtained from the Persian oil fields.

6. The difficulty and cost of conveying supplies of oil by river from the base at Basra to the military stations situated north of Bagdad and in the Mosul region have compelled the military authorities in that region to consider the problem of securing sufficient supplies locally and have led to the working of an oil well which had been partially developed by the Turkish authorities previous to and during the war. The operations at this well have been conducted for purely military purposes under the immediate supervision of the Army authorities and at Army expense and no private interests whatever are in any way involved.

7. In regard to the building of railways and dockyards, I need hardly dwell upon the imperative necessity for providing every possible means of transport during the period of military operations and facilities of every kind at the ports for the landing of troops and stores. The construction of railways in a country utterly destitute of any properly organized means of communication has, throughout the period of the war and since the cessation of hostilities, been of paramount importance from the military as well as from the administrative point of view.

8. The suggestion that Great Britain during the period of military occupation of the mandatory territories, has been preparing for exclusive control of their oil resources is equally devoid of foundation and the claims of British commercial interests in those regions, whatever they may be, are today no stronger as they are no weaker than they were at the outbreak of war.

9. I would like, I beg to say, to make a passing reference to the very mistaken impressions, which appear to be current in the United States in regard to the oil policy of His Majesty's Government. The output of oil within the British Empire is only about $2\frac{1}{2}$ per cent of the world's production and if the production of Persia be included in virtue of certain oil fields in that country being owned by a British Company, the total amounts to about $4\frac{1}{2}$ per cent. Against this small percentage the United States produces some 70 per cent of the world's output besides which United States companies who own at least three fourths of the Mexican output are estimated to produce a further 12 per cent of the world's output. This overwhelming proportion, over 80 per cent of the petroleum production of the world, is under American control and the predominance of the United States in regard to oil production is assured for many years

to come. There is, in any case, no justification for supposing that Great Britain, whose present oil resources are altogether insignificant in comparison, can seriously threaten American supremacy and any prophecies as to the oil bearing resources of countries, at present unexplored and quite undeveloped, must be accepted with reserve.

10. The nervousness of American opinion, concerning the alleged grasping activities of British oil interests, appears singularly unfortunate in view of these facts. And yet it is notable that the United States, notwithstanding their assured supremacy, have taken powers to reserve for American interests the right to drill for oil on United States domain lands and have, on various occasions, used their influence in territories amenable to their control with a view to securing cancellation of oil concessions previously and legitimately obtained by British persons or companies. Thus, on the occupation of Haiti by United States forces in 1913, the United States Administration refused to confirm an oil concession which had been approved by the Haitian Government and Legislature and for which the caution money had been deposited in the Republic, and more recently the United States representative at San José urged the present Costa Rican Government to cancel all concessions granted by the previous Government, the only concession in question being an oil concession granted to a British subject.

11. Very different has been the attitude of the British Government. In assuming the administration of the occupied Turkish territories they have remained fully alive to their obligation as a temporary occupant to protect not only the natural resources of the country against indiscriminate exploitation, but also the absolute freedom of action which the authority to be created eventually for administering those regions would have rightly expected to enjoy.

12. Mindful of this obligation, His Majesty's Government have found it necessary to suspend, during the period of occupation the grant of facilities and opportunities to British as well as to other private interests to investigate the natural resources of the country with the view of acquiring new claims or strengthening old ones and there is no reason for assuming that the administration either of Mesopotamia or of Palestine, has at any time failed to carry out the policy which has been laid down by His Majesty's Government.

13. I will now refer to the propositions enumerated by you on which discussion is invited, and which have been put forward with the object of guaranteeing to the commerce of all nations the practical fulfillment in the mandated regions of the principles of equal treatment in law and in fact. Reference is made in this connection to the desirability of the adherence of the mandatory power to the principles expressed and agreed to during the peace negotiations in Paris, as well as to principles embodied in Mandate A, prepared in London by the Commission on Mandates for adoption by the League of Nations.

14. I would first point out that in consequence of a divergence of views, the Commission on Mandates proceeded no further with the draft of the mandate form, "A", which was consequently abandoned.

15. The draft mandates for Mesopotamia and for Palestine, which have been prepared with a view to secure equality of treatment and

opportunity for the commerce, citizens and subjects, of all states who are members of the League of Nations, will when approved by the Allies interested, be communicated to the Council of the League of Nations. In these circumstances His Majesty's Government, while fully appreciating the suggestion for discussing with the United States Government the various propositions mentioned by you, with which they are in full sympathy, are none the less of the opinion that the terms of the mandates can only properly be discussed at the Council of the League of Nations by the signatories of the Covenant.

16. In the matter of concessions granted in the mandated territories by the Turkish Government his Majesty's Government fully agree with the views of the United States Government that due consideration must be given to all rights legally acquired before the outbreak of hostilities. Provision for the consideration and recognition under certain conditions of concessions situated in territories detached from the Turkish Empire has, moreover, as you no doubt know, been made in the treaty of peace with Turkey. His Majesty's Government are aware that certain rights were acquired in Palestine before the war by American citizens while British interests, such as the Turkish Petroleum Company and other groups, claim similar rights either in Mesopotamia or in Palestine. These claims will naturally have to be given practical consideration and receive equitable treatment consistent with the interests of the mandated territory.

17. As part of the administrative arrangements under the treaty of peace with Turkey and the mandate, the oil deposits of Mesopotamia will be secured to the future Arab state, but it is far from the intention of the mandatory power to establish on its own behalf any kind of monopoly.

18. In view of long standing interests which the French Government possessed in the Mosul district, arrangements were made whereby the French Government should, on renouncing those interests, be assured of a certain participation in the Mesopotamia oil production. It was accordingly decided that in the event of the Mesopotamian oil fields being developed by the state, France should be entitled to purchase 25 per cent of the oil production at ordinary market rates or in the alternative of the oil fields being developed by private enterprise that French participation should not be less than 25 per cent in the share holdings while provision was made that the Mesopotamian administration should likewise have a certain share.

19. In consideration for such participation, the French Government agreed to permit the laying of a pipe line from the Mesopotamian oil fields through Syria, besides providing for other facilities these arrangements including others for mutual cooperation in other countries were embodied in an agreement which has been published. The practical outcome of the arrangement so far as Mesopotamia is concerned is that while France secures a share in the output of oil at ordinary market rates the Mesopotamian state is afforded in return, facilities for placing the production of the oil fields within easy reach of the world's markets. The agreement aims at no monopoly. It does not exclude other interests and gives no exclusive right to the mandatory power while the Mesopotamian

state is free to develop the oil fields in any way it may judge advisable consistent with the interests of the country.

20. I feel bound to observe that even if any special privileges were assigned to France under this agreement, such a proceeding would be consistent with the interpretation consistently placed by the United States Government on most favored nation clauses in treaties namely, that special privileges conceded to particular countries in return for specific concessions cannot, in virtue of such a clause, be claimed by other countries not offering such concessions. The United States Government have indeed recently taken a further step in the case of the "Jones" Act, and have taken powers actually to withdraw treatment secured by treaties which in some cases contain no provision for denunciation.

21. As regards the alleged action of the administration of Tanganyika Territory referred to in the penultimate paragraph of your note of the 25th [28th], ultimo, I should be obliged if you would furnish me with the names of any persons who have been refused privileges granted to British subjects and the dates of their applications.

I have the honor to be with the highest consideration, Your Excellency's most obedient, humble servant, Curzon of Kedleston."

DAVIS

800.6368/173

The Chargé in France (Harrison) to the Secretary of State

No. 1520

PARIS, August 13, 1920.

[Received August 25.]

SIR: Reference is made to the Department's telegram No. 785, of July 26th to London,⁷⁷ which was repeated to me by Mr. Davis, giving the text of a Note to be sent to the British Foreign Office and instructing this Embassy to present to the French Foreign Office such parts thereof as might be considered advisable. In compliance with your instructions, I have the honor to report that on August 8th I took occasion to see Mr. Paléologue, Secretary General of the Foreign Office, to explain to him unofficially the position of the American Government with respect to the agreement made at San Remo between the British and French Governments for the disposition of petroleum produced in Mesopotamia, which gave to France preferential treatment in regard thereto. To emphasize my point, I left with him an *aide memoire* which is enclosed. Mr. Paléologue promised to give these matters his immediate attention.

Since the foregoing was drafted I have received your telegraphic Instruction No. 1362, of August 11, 7 P.M.,⁷⁸ relative to the Anglo-French Oil Agreement. I believe that this Instruction is fully covered by my previous action recited above.

I have [etc.]

LELAND HARRISON

⁷⁷ *Ante*, p. 658.

⁷⁸ Not printed.

[Enclosure]

The American Chargé (Harrison) to the Secretary General of the French Foreign Office (Paléologue)

[PARIS,] August 7, 1920.

AIDE MEMOIRE

During the Peace negotiations at Paris leading up to the Treaty of Versailles, the Government of the United States consistently took the position that the future peace of the world required that as a general principle any alien territory which should be acquired by the Allied Powers pursuant to the Treaties of Peace with the Central Powers must be held and governed in such a way as to assure equal treatment in law and in fact to the commerce of all nations. It was on account of and subject to this understanding that the United States felt itself able and willing to agree that the acquisition of certain enemy territory by the victorious powers would be consistent with the best interests of the world. The representatives of the principal Allied Powers in the discussion of the mandate principles and in the deliberations of the Council of Four expressed in no indefinite manner their recognition of the justice and far-sightedness of such a principle and agreed to its application to the mandate over Turkish territory.

The Government of the United States has noted the publication of an agreement between the British Government and the French Government making certain provisions for the disposition of petroleum produced in Mesopotamia and giving to France preferential treatment in regard thereto—the so-called San Remo agreement of April 24, 1920.⁷⁹ It is not clear to the Government of the United States how such an agreement can be consistent with the principles of equality of treatment understood and accepted during the Peace negotiations at Paris. The views of the Government of the Republic are respectfully solicited.

800.6363/196 A

*The Secretary of State to the Ambassador in Great Britain
(Davis)*

No. 1040

WASHINGTON, November 23, 1920.

SIR: Referring to my telegram No. 1169 [1168] of November 20⁸⁰ and to your telegraphic reply No. 1639, November 22, 4:35 P.M.,⁸⁰ I transmit herewith the signed communication to Lord Curzon

⁷⁹ *Ante*, p. 655.

⁸⁰ Not printed.

on the subject of petroleum resources in the Near East. I request that you will hand this note to His Lordship at your early convenience.

I am [etc.]

BAINBRIDGE COLBY

[Enclosure]

The Secretary of State to the British Secretary of State for Foreign Affairs (Curzon)

WASHINGTON, November 20, 1920.

MY LORD: I have the honor to refer to your note of August 9⁸¹ regarding the application of the principle of equality of treatment to the territories of the Near East to be placed under mandates, and specifically to the petroleum resources of those territories as affected by that principle.

Before considering the observations of His Majesty's Government on the general principles advocated by the United States, and agreed to by the Allied Powers, for application to the mandates over former Turkish territory, as outlined in the notes of May 12,⁸² and July 28,⁸³ addressed to you on behalf of this Government, I think it will clarify the discussion to indicate certain of your statements and assurances which this Government has been pleased to receive. Thus, I note that the assignment to Great Britain of the mandate for Mesopotamia was made and accepted subject to no friendly arrangement whatever with any third Government regarding economic rights, which, of course, would have been wholly at variance with the purpose and contemplation of any mandate.

It is also gratifying to learn that His Majesty's Government is in full sympathy with the several propositions formulated in the note of May 12, above referred to, which embody or illustrate the principles which this Government believes should be applied in the mandated regions, and which are essential to the practical realization of equality of treatment.

The statements of your note, to the effect that the British Government has refrained from exploiting the petroleum resources of the mandated territories in question; that the operations referred to have been conducted for purely military purposes under the immediate supervision of the army authorities and at army expense; and that no private interests whatever are in any way involved, are accepted with a full sense of the good faith of the British Government.

⁸¹ See telegram no. 1205, Aug. 11, 1920, from the Ambassador in Great Britain, p. 663.

⁸² *Ante*, p. 651.

⁸³ See telegram no. 785, July 26, 1920, to the Ambassador in Great Britain, p. 658.

The Government of the United States notes that His Majesty's Government has found it necessary to suspend, during the period of occupation, the grant of facilities and opportunities to British as well as to other private interests to investigate the natural resources of the country, either for the purpose of acquiring new claims or strengthening old ones, and that there is no reason for assuming that the administration either of Mesopotamia or of Palestine has at any time failed to carry out the assurances of His Majesty's Government.

This Government welcomes your pledges to the effect that the natural resources of Mesopotamia are to be secured to the people of Mesopotamia and to the future Arab State, to be established in that region, and that it is the purpose of the British Government, fully alive to its obligation as a temporary occupant, not only to secure those resources to the Mesopotamian State, but also its absolute freedom of action in the control thereof, and in particular that it is far from the intention of the mandatory power to establish any kind of monopoly or preferred position in its own interest.

The Government of the United States appreciates, likewise, the concurrence with its view that the merits of all claims to rights alleged to have been acquired in the mandated territories before the outbreak of hostilities must be duly established before recognition of such claims will be accorded.

Adverting, at this point, to the views of His Majesty's Government regarding the nature of the responsibilities of mandatory powers under the League of Nations, I desire to call to the attention of His Majesty's Government, the fact that, while the draft mandate, Form A, was not adopted at Paris, it was the understanding of the American representatives, there present, that the British Government entertained and had expressed convictions favorable to said form, and that, presumably, its representatives would exercise their influence in conformity with those convictions.

I need hardly refer again to the fact that the Government of the United States has consistently urged that it is of the utmost importance to the future peace of the world that alien territory transferred as a result of the war with the Central Powers should be held and administered in such a way as to assure equal treatment to the commerce and to the citizens of all nations. Indeed it was in reliance upon an understanding to this effect, and expressly in contemplation thereof, that the United States was persuaded that the acquisition under mandate of certain enemy territory by the victorious powers would be consistent with the best interests of the world.

It is assumed, accordingly, that your statements with reference to Mandate A, together with the statement that the draft mandates for

Mesopotamia and Palestine have been prepared with a view to secure equality of treatment for the commerce and citizens of all states which are members of the League of Nations, do not indicate a supposition on your part that the United States can be excluded from the benefits of the principle of equality of treatment.

This Government is pleased to find that His Majesty's Government is in full sympathy with the principles formulated in its communications of May 12, and July 28. But it is unable to concur in the view, contained in paragraph 15 of your note, that the terms of the mandates can properly be discussed only in the Council of the League of Nations and by the signatories of the Covenant. Such powers as the Allied and Associated nations may enjoy or wield, in the determination of the governmental status of the mandated areas, accrued to them as a direct result of the war against the Central Powers. The United States, as a participant in that conflict and as a contributor to its successful issue, cannot consider any of the associated powers, the smallest not less than itself, debarred from the discussion of any of its consequences, or from participation in the rights and privileges secured under the mandates provided for in the treaties of peace.

This Government notes with interest your statement that the draft mandates for Mesopotamia and for Palestine, which have been prepared, with a view to secure equality of treatment and opportunity for the commerce, citizens and subjects of all states, which are members of the League of Nations will, when approved by the interested Allied Powers, be communicated to the Council of the League of Nations. The United States is, undoubtedly, one of the powers directly interested in the terms of the mandates, and I therefore request that the draft mandate forms be communicated to this Government for its consideration before their submission to the Council of the League. It is believed that His Majesty's Government will be the more ready to acquiesce in this request, in view of your assurance that His Majesty's Government is in full sympathy with the various principles contained in the two previous notes of this Government upon this subject.

The establishment of the mandate principle, a new principle in international relations, and one in which the public opinion of the world is taking a special interest, would seem to require the frankest discussion from all pertinent points of view. It would seem essential that suitable publicity should be given to the drafts of mandates which it is the intention to submit to the Council, in order that the fullest opportunity may be afforded to consider their terms in relation to the obligations assumed by the mandatory power, and the re-

spective interests of all governments, which are or deem themselves concerned or affected.

The fact cannot be ignored that the reported resources of Mesopotamia have interested public opinion of the United States, Great Britain, and other countries as a potential subject of economic strife. Because of that fact they become an outstanding illustration of the kind of economic question with reference to which, the mandate principle was especially designed, and indeed a peculiarly critical test of the good faith of the nations, which have given their adherence to the principle. This principle was accepted in the hope of obviating in the future those international differences that grow out of a desire for the exclusive control of the resources and markets of annexed territories. To cite a single example: Because of the shortage of petroleum, its constantly increasing commercial importance, and the continuing necessity of replenishing the world's supply by drawing upon the latent resources of undeveloped regions, it is of the highest importance to apply to the petroleum industry the most enlightened principles recognized by nations as appropriate for the peaceful ordering of their economic relations.

This Government finds difficulty in reconciling the special arrangement referred to in paragraphs 18 and 19 of your note, and set forth in the so-called San Remo Petroleum Agreement, with your statement that the petroleum resources of Mesopotamia, and freedom of action in regard thereto, will be secured to the future Arab State, as yet unorganized. Furthermore, it is difficult to harmonize that special arrangement with your statement that concessionary claims relating to those resources still remain in their pre-war position, and have yet to receive, with the establishment of the Arab State, the equitable consideration promised by His Majesty's Government.

This Government has noted in this connection a public statement of His Majesty's Minister in Charge of Petroleum Affairs to the effect that the San Remo Agreement was based on the principle that the concessions granted by the former Turkish Government must be honored. It would be reluctant to assume that His Majesty's Government has already undertaken to pass judgment upon the validity of concessionary claims in the regions concerned, and to concede validity to certain of those claims which cover, apparently, the entire Mesopotamian area. Indeed this Government understands your note to deny having taken, and to deny the intention to take, any such *ex parte* and premature action. In this connection, I might observe that such information as this Government has received indicates that, prior to the war, the Turkish Petroleum Company, to make specific reference, possessed in Mesopotamia no rights to petroleum concessions or to the exploitation of oil; and in view of your assurance that it is not the intention of the mandatory power to establish on its own

behalf any kind of monopoly, I am at some loss to understand how to construe the provision of the San Remo Agreement that any private petroleum company which may develop the Mesopotamian oil fields "shall be under permanent British control".

Your Lordship contrasts the present production of petroleum in the United States with that of Great Britain and some allusion is made to American supremacy in the petroleum industry. I should regret any assumption by His Majesty's Government or any other friendly power, that the views of this Government as to the true character of a mandate are dictated in any degree by considerations of the domestic need or production of petroleum, or any other commodity.

I may be permitted to say, however, for the purpose of correcting a misapprehension which your note reflects, that the United States possesses only one-twelfth approximately of the petroleum resources of the world. The oil resources of no other nation have been so largely drawn upon for foreign needs, and Your Lordship's statement that any prophecies as to the oil-bearing resources of unexplored and undeveloped countries must be accepted with reserve, hardly disposed of the scientific calculation upon which, despite their problematical elements, the policies of States and the anticipations of world-production are apparently proceeding. The Government of the United States assumes that there is a general recognition of the fact that the requirements for petroleum are in excess of production and it believes that opportunity to explore and develop the petroleum resources of the world wherever found should without discrimination be freely extended, as only by the unhampered development of such resources can the needs of the world be met.

But it is not these aspects of oil production and supply, in so far as they are of domestic interest to the United States, with which I am concerned in this discussion. I have alluded to them in order to correct confusing inferences, liable to arise from certain departures, which I believe I discern in Your Lordship's communication, from the underlying principles of a mandate, as evolved and sought to be applied by the Allied and Associated Powers to the territories, brought under their temporary dominion, by their joint struggle and common victory. This dominion will be wholly misconceived, not to say abused, if there is even the slightest deviation from the spirit and the exclusive purpose of a trusteeship as strict as it is comprehensive.

Accept [etc.]

BAINBRIDGE COLBY

800.6363/216a

*The Secretary of State to the Ambassador in France (Wallace)*⁸³

No. 681

WASHINGTON, December 1, 1920.

SIR: There is transmitted to you herewith a copy of the note of this Government, addressed to Earl Curzon, British Secretary of State for Foreign Affairs, under date of November 20th,⁸⁴ in which the theory of mandates, as evolved and applied by the League of Nations, is discussed, and in which the views of this Government in favor of equality of right and opportunity in the mandated areas are fully set forth.

You are instructed to deliver the enclosed copy of the note of this Government to the French Foreign Office, and to request at its early convenience an interpretation by the French Government of the provisions of the agreement between Great Britain, Italy, and France, signed at Sèvres on August 10, 1920, relating to the creation of spheres of "special interest" in Anatolia, in the light of the American note to the British Government above referred to.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

800.6363/218

The Ambassador in France (Wallace) to the Acting Secretary of State

No. 2036

PARIS, January 14, 1921.

[Received January 26.]

SIR: In answer to the Department's No. 681, December 1, 1920, enclosing for delivery to the French Foreign Office, a copy of a note addressed to Earl Curzon under date of November 20th on the subject of petroleum resources in the Near East, and directing me to obtain an interpretation by the French Government of the provisions of the agreement between Great Britain, Italy and France, signed at Sèvres on August 10, 1920, in the light of the note above referred to, I have the honor to enclose herewith, in copy and translation, the reply received from the Minister for Foreign Affairs setting forth the French point of view in regard to the clauses of the said tripartite agreement.

I have [etc.]

HUGH C. WALLACE

⁸³ A similar instruction was sent to the Ambassador in Italy on Dec. 2 (file no. 800.6363/216b).

⁸⁴ *Supra*.

[Enclosure—Translation ⁸⁵]

*The French Minister of Foreign Affairs (Leygues) to the American
Ambassador (Wallace)*

PARIS, January 12, 1921.

MR. AMBASSADOR: In your letter of December 24, communicating to me the text of a note addressed by the Federal Government to the British Government under date of November 20, in regard to the question of mandates, you were good enough to request me to inform you of the French Government's interpretation of the clauses of the treaty signed at Sévres, August 10, 1920, between France, Great Britain, and Italy, relating to the creation in Anatolia of spheres of special interest.

I hasten to inform you that the agreement in question is based solely upon the system borrowed from Anglo-Saxon juridical usage of "self-denying undertaking" pursuant to which each contracting party without any prohibition whatsoever in regard to the others or to third parties, denies himself certain actions. It would seem that an agreement based upon such principles should be the less likely to arouse the susceptibilities of other powers inasmuch as article 10 of the agreement of August 10 provides in favor of nationals of third powers for all economic purposes, free access to the so-called zones of special interest, and thus sanctions in favor of the said powers the principle of commercial equality.

The American Government has doubtless not failed to observe, furthermore, that by this agreement the three signatory powers have assumed certain engagements which may prove particularly heavy as regards the protection of minorities in Turkey.

Kindly accept [etc.]

G. LEYGUES

**CONSULAR JURISDICTION IN PALESTINE: REFUSAL BY THE
UNITED STATES TO ACQUIESCE IN THE JURISDICTION OF THE
LOCAL BRITISH COURTS OVER AMERICAN CITIZENS**

711.673/105

*The High Commissioner in Turkey (Bristol) to the Secretary of
State*

CONSTANTINOPLE, October 16, 1920.

[Received November 10.]

SIR: I have the honor to invite the attention of the Department to my instructions, dated October 16, 1920, to the American Consul

⁸⁵ File translation revised.

in Charge in Jerusalem on the subject of the continuing in force of the Capitulations.

The question has arisen on several different occasions, as to whether the Capitulations still hold in those parts of the former Turkish Empire which have been detached therefrom, by the terms of the Treaty of Sèvres. I believe I am correct in assuming that the Department considers the Capitulations as still in effect, until an agreement has been reached between the United States Government and not only the Turkish Government, but also the new mandatories of former parts of the Turkish Empire.

I should appreciate definite instructions from the Department on this point.

I am [etc.]

MARK L. BRISTOL

[Enclosure]

The High Commissioner in Turkey (Bristol) to the Consul at Jerusalem (Heizer)

[CONSTANTINOPLE,] *October 16, 1920.*

SIR: I have received your despatch of September 22nd, last, inquiring whether this Commission considers that the mandatory power in Palestine will have the right to levy and collect taxes upon American mission properties.

In reply, I have to say that this Commission does not consider the Turkish Treaty as having yet gone into effect, for the Treaty provides that it shall only go into effect when ratified by three of the principal Allied Powers and the Turkish Government. As far as I know, no ratification of this treaty has been made by England, France, or Italy, nor has it been ratified by the Turkish Government. Certainly, until ratification has taken place, the Capitulations still hold in Palestine, and as the United States Government has not participated in the Turkish Treaty, nor given its approval thereto, I am inclined to think that it will be the policy of the State Department to consider that the Capitulations will hold in those former parts of the Turkish Empire which have been placed under the mandate, until such time as the United States Government agrees to the abrogation or modification thereof.

I am [etc.]

MARK L. BRISTOL

711.673/106 : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Davis)

WASHINGTON, *December 9, 1920—6 p.m.*

1214. Consul at Jerusalem reports Dana, an American citizen, arrested and held for trial in local court for running over and killing

Jewish woman. Consul is being instructed to request Dana's surrender for proceedings in consular court and to inform local British authorities that in the absence of a final determination of the status of certain Turkish territories and of the rights of foreigners therein, this Government cannot acquiesce in their exercise of jurisdiction over American citizens which contravenes the right of United States, under existing treaties and usages, to maintain a court of justice separate from the local Administration for the exclusive cognizance of alleged offenses by American citizens in Jerusalem. You will communicate with British Government in same sense and request that authorities in Jerusalem be immediately instructed to deliver Dana to American Consul for appropriate proceedings.

DAVIS

711.873/111

The Ambassador in Great Britain (Davis) to the Acting Secretary of State

No. 3985

LONDON, December 30, 1920.

[Received January 13, 1921.]

SIR: With reference to the Department's telegraphic instruction No. 1214 of December 9th, 6 p.m., relative to the arrest and detention of an American citizen named Dana at Jerusalem on the ground of running over and killing a Jewish woman, I have the honor to transmit herewith, for the information of the Department, copy of a Note No. E.15683/11813/44 which I have received from the Foreign Office in this connection.

In view of the circumstances set forth in the above-mentioned Note relative to the present administration in Palestine pending the coming into effect of the Turkish Treaty and the British mandate, Lord Curzon enquires whether the United States Government have any objection to Mr. Dana being tried by the ordinary courts and process of law provided under the existing regime, which, Lord Curzon adds, would appear to offer adequate safeguards that justice will be done in the case.

I have [etc.]

JOHN W. DAVIS

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

No. E15683/11813/44

The Secretary of State for Foreign Affairs presents his compliments to the United States Ambassador and has the honour to refer

to his memorandum No. 687 of the 10th, instant, relative to the detention of an American citizen, Mr. Dana, at Jerusalem on the ground of running over and killing a Jewish woman.

In reply Lord Curzon would observe that with the coming into force of the Turkish Treaty and the severance thereby of Palestine from Turkey the capitulations in Palestine will be definitely at an end.

In the meanwhile the provisional civil administration of Palestine which has been established, pending the coming into force of the Turkish Treaty, and the provisions of the Mandate for Palestine, has, for practical convenience and owing to the political and military exigencies of the situation, maintained, with certain necessary modifications, the judicial system in existence in the country at the moment of its occupation by British troops. This system, as the United States Government are aware, did not include consular courts, the capitulations having been abolished (however illegally) by the Turkish Government in 1914.

The modifications introduced by the present administration provide, *inter alia*, for the trial either by a single British magistrate or by a Court containing a majority of British judges of foreign subjects charged with any criminal offence more serious than a contravention within the jurisdiction of the Magistrates Court. The above procedure appears to Lord Curzon to offer adequate safeguards that justice will be done in the present case and he has therefore the honour to enquire whether, in the circumstances, the United States Government desire to raise objections to Mr. Dana being tried by the ordinary courts and process of law provided by the administration.

[LONDON,] December 29, 1920.

711.673/109 : Telegram

The Ambassador in Great Britain (Davis) to the Acting Secretary of State

LONDON, January 5, 1921—1 p.m.

[Received 3:21 p.m.]

11. Your 1214, December 9, 6 p.m. and my despatch 3985, December 30th. Foreign Office states High Commissioner for Palestine reports that from evidence at police investigation Dana was in no way to blame for accident and that case will not be proceeded with.

DAVIS

THE ANGLO-JAPANESE ALLIANCE: REPRESENTATIONS BY THE
UNITED STATES GOVERNMENT TO THE BRITISH GOVERNMENT
REGARDING A POSSIBLE RENEWAL OF THE ALLIANCE

741.9411/23a : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Davis)*⁸⁵

WASHINGTON, October 2, 1919—6 p.m.

6038. There have come to the Department various unconfirmed rumors that negotiations are in progress for the renewal of the Anglo-Japanese Alliance. It is hoped that you will keep the Department fully advised of all information that you may be able to obtain in regard to the actual course of negotiations and in regard to the general feeling of the country on that subject.

The Department desires particularly to learn whether there is on the part of Great Britain a tendency to broaden or to restrict the recognition of Japan's special interests in eastern Asia or otherwise to modify the scope or purport of the Treaty of Alliance as signed in 1911.

Is there in your opinion any ground for the supposition that Great Britain proposes to avail itself of the negotiations on this subject in order to urge upon Japan the relinquishment of claims to such special interests in China as would warrant the exclusion of Manchuria and Mongolia from the operation of the proposed consortium?

PHILLIPS

741.9411/24 : Telegram

*The Chargé in China (Tenney) to the Secretary of State*⁸⁶

[Paraphrase]

PEKING [undated].

[Received March 25, 1920—12:30 p.m.]

65. A report has been received from the Chinese Minister in Great Britain that the Japanese envoys are negotiating with the British for a renewal of the Anglo-Japanese Alliance. It is my hope that the Alliance will not be renewed as that would have an unfortunate effect in China.

TENNEY

⁸⁵ Repeated on the same date to the Ambassador in Japan for his confidential information and guidance (file no. 741.9411/23b).

⁸⁶ Repeated by the Secretary of State to Great Britain as no. 314, Mar. 26, 4 p.m.

741.9411/25 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

[Paraphrase]

LONDON, April 28, 1920—5 p.m.

[Received April 28—2:48 p.m.]

694. The Foreign Office informs me that the matter of continuing the Treaty of Alliance between England and Japan remains undecided. It is Lord Hardinge's opinion that the status of the Alliance should be permitted to stand without alteration for another period of one year, at the end of which time he believes the situation may be more easily appraised than is possible now. It is expected that this view will prevail.

DAVIS

741.9411/28a : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Davis)

[Paraphrase]

WASHINGTON, May 10, 1920—noon.

471. Our 6038, October 2, 1919, 6 p.m. In spite of the formation of the League of Nations it seems likely that Great Britain and Japan will renew their Alliance. We are hopeful, however, that in making this renewal Great Britain will insist upon including in the terms of the Alliance such provisions as shall safeguard the principle of equal opportunity in China and the rights of China more effectively. We also hope that it will be indicated that the Alliance is not aimed at America. Although the Department does not consider this an appropriate or opportune time to take this matter up officially, we wish you to frankly inform us of your views as to whether it would be practical for you to suggest to the Foreign Office in an unofficial and personal manner that the Alliance might be changed in the way we have suggested, which would be a great aid to Anglo-American cooperation in the Far East and be very pleasing to American public opinion.

Specifically we suggest the following modifications:

A. To place in the preamble which states the respective interests of Great Britain and Japan in the Far East a clause including the substance of the final paragraph of the notes exchanged between Secretary Lansing and Ambassador Ishii⁸⁷ which is as follows:⁸⁸

"They mutually declare that they are opposed to the acquisition by any Government of any special rights or privileges that would affect the independence

⁸⁷ *Foreign Relations*, 1917, pp. 264-265.

⁸⁸ The quotation from the Lansing-Ishii notes which follows is not paraphrased.

or territorial integrity of China or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China."

B. To enlarge the exception found in article IV of the Anglo-Japanese Alliance so that it will include the Treaty for the Advancement of Peace, known as the Bryan Treaty, which was concluded between the United States and Great Britain on September 15, 1914.⁸⁹

The inclusion of article IV in the present agreement was due to the fact that the negotiation of the Knox Treaty of General Arbitration was pending at the time, and it was intended by the provisions of article IV to remove the United States from the application of the Alliance. The Knox Treaty having failed of ratification, due to the action of the United States Senate, the purpose for which the exception was made would be fulfilled if its provisions were so extended as to include the treaty of September 15, 1914.

The suggestion might also be made, although in a less positive way, that since the orientation of Japan's foreign policy is seemingly unstable, a limitation of five years upon the duration of the agreement might well be made again, instead of ten years, so that the British Government might have a less remote chance to influence the course of Japan's actions in the Far East.

The consortium negotiations have revealed, it is felt, a common purpose held by America and Great Britain to resist the trend toward extending to China policies of special interests which tend to infringe upon Chinese rights and upon the Open Door policy. We hope that sentiment in Great Britain will respond to the proposal that in the Anglo-Japanese Alliance the principles which form the basis of the existing sympathetic Anglo-American cooperation should be more explicitly recognized.

POLK

741.9411/33 : Telegram

The Ambassador in Great Britain (Davis) to the Secretary of State

[Paraphrase]

LONDON, May 21, 1920—2 p.m.

[Received 4:10 p.m.]

833. It is practical in my opinion to bring to the attention of the Foreign Office in an informal way the suggestions made in your 471, May 10, noon. I think it best not to try to hurry in this matter but I will present it when a good opportunity is offered.

DAVIS

⁸⁹ *Foreign Relations*, 1914, p. 304.

741.9411/33: Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Davis)*

[Paraphrase]

WASHINGTON, May 24, 1920—7 p.m.

543. Your 833, May 21, 2 p.m. Use your own discretion in urging unofficially the suggestions made in our 471, May 10, noon, using such channels of communication as seem best to you.

POLK

741.9411/34: Telegram

*The Ambassador in Great Britain (Davis) to the Secretary of
State*

[Paraphrase]

LONDON, June 7, 1920—noon.

[Received June 7—9:32 a.m.]

900. Your May 10, noon, and May 24, 7 p.m. The chance has been found to convey informally your suggestions in substance to the Foreign Office. I have been given assurance that they will be fully considered and that in any redrafting of the Anglo-Japanese Treaty of Alliance it will be made quite clear that the Alliance is not aimed at the United States.

DAVIS

741.9411/35

The Chargé in Japan (Bell) to the Secretary of State

No. 590

TOKYO, June 11, 1920.

[Received June 29.]

SIR: I have the honor to submit the following summary of the press comments in connection with the question of the renewal of the Anglo-Japanese Alliance which has been one of the prominent topics of discussion in this country during the past two weeks.

On the whole, the intellectual classes favor the renewal of the Alliance, as is shown in the views of leading statesmen, which are inclosed herewith.⁹¹ The *Kokumin* however believes that, generally speaking, public opinion in Japan is indifferent to it, because it has already fulfilled its mission, and because its future continuation will be more beneficial to England than to Japan. In fact, it would be difficult to convince the average Japanese that the Alliance was

⁹¹ Enclosures not printed.

not a very one-sided affair. One constantly hears of the great sacrifices that Japan has had to make during the war in order to carry out her obligations. Not only do Japanese publicists dwell with much unction upon the costly Tsingtau campaign and the operations of the Japanese navy in the Pacific, the Indian Ocean and the Mediterranean, but also even advance the theory that the Siberian expedition was undertaken in response to the solicitation of Great Britain. Japanese are reminded that the Alliance makes Japan the "watch-dog" of British interests in Asia, and that at any time Japan may have to assume the burden of saving India from the menace of Bolshevism.

On the other hand, although it feels that the Alliance has little material value, there is a large element which attaches great importance to its moral value in that it adds greatly to the prestige of the nation to have the support of one of the greatest powers of the west. For instance, the *Nichi Nichi* observes "We are not concerned with whether the provisions of the Alliance have any practical value or not; the very fact of the Alliance being continued will point to the intimacy of the two countries and will benefit both of them, and moreover with the present state of affairs in the world there is no knowing what new situations and problems may occur during the next two or three years".

Moreover, there is a widespread feeling that the Alliance secures for Japan the adherence of Great Britain to a Japanese counterpart of a *pax Romana* in the Orient. As the *Osaka Mainichi* puts it, "the Alliance is as important as it ever has been as the principal factor in the preservation of the peace of the Orient. It may also have to undertake the task of vindicating peace on the Pacific, which is why it is being discussed so earnestly in America and Australia".

Nevertheless there is considerable opposition among the more chauvinistic elements to Article IV of the revised Alliance of 1911, which provides that neither of the contracting parties shall be obliged to go to war with a power with which it has a general arbitration treaty. They feel apprehensive lest further modifications may be introduced at the instance of Great Britain for the benefit of British colonies and America. Commenting on this point, the *Yorodzu*, a popular organ, intimates "If the British Government intends to reduce the scope of the Alliance out of consideration for the sentiment of Australia and other colonies as well as America, Great Britain should learn that it will be very difficult to renew it". A similar note is sounded by the *Osaka Asahi*, "We do not say that the Anglo-Japanese Alliance is absolutely useless, but if the terms for renewal are even more unfavorable than the present terms, we do not wish it to be renewed. At present the Anglo-Japanese Alliance is the only card in the hands of the Japanese authorities.

The only possible alternative is isolation, but we do not wish the nation to be in the position of entreating Great Britain to renew the Alliance ”.

In contrast to these views is the position of a liberal organ, the *Tokyo Asahi*, which observes, “ We do not hesitate to support the renewal of the Anglo-Japanese Alliance. Some Japanese hold that Great Britain should not be absolved from the obligation of assisting Japan in case of war with America. It is impossible that Great Britain and America should go to war for a third country. Instead of hoping for such an impossibility, we had better see to it that besides the maintenance of the Anglo-Japanese Alliance, Japanese-American friendship is strengthened so that the three powers can cooperate for the vindication of the world’s peace and for the promotion of the welfare of mankind ”.

On the subject of Anglo-American relations, the *Yorodzu*, by the way, seems to have reached an entirely different conclusion. It notes that the economic rivalry between the two nations cannot but cause intense antagonism, and that Americans are instigating Indians and Irish as much as they are the Koreans, which precludes the existence of amicable relations between Great Britain and America. This probably is a case of the wish being father to the thought, for there are many Japanese who would be pleased to learn that the relations between the two Anglo-Saxon powers were strained.

There has also been considerable discussion of the advisability of enlarging the Anglo-Japanese Alliance to include America. One of the foremost protagonists of this project is the *Yomiuri*, one of the mouth-pieces of the liberal group in Japan. Although it regards the realization of such a plan as somewhat difficult in view of the traditional policy of America, it suggests that a new international agreement embodying the spirit of the Hay Declaration, the Root-Takahira and Ishii-Lansing Agreements and the Franco-Japanese Agreement, while not as effective as an offensive and defensive alliance, might be better than an emasculated alliance between Great Britain and Japan without the participation of America.

I have [etc.]

EDWARD BELL

741.9411/38a : Telegram

The Acting Secretary of State (Davis) to the Minister in China (Crane)

WASHINGTON, June 22, 1920—5 p.m.

150. Press item dated June 2, Peking, states China has filed a formal protest with British Government against renewal of Anglo-Japanese Alliance. Please verify.

DAVIS

741.9411/41 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, June 28, 1920—noon.

[Received June 28—8:34 a.m.]

150. Department's telegram June 22, 5 p.m. Chinese Government has protested against mention of China in Anglo-Japanese Alliance Treaty when renewed. I am sending a copy of the Chinese note by mail.⁹²

CRANE

741.9411/44

The Consul General at London (Skinner) to the Secretary of State

No. 9887

LONDON, July 10, 1920.

[Received July 30.]

SIR: I have the honor to report that in the House of Commons on July 8, 1920, Mr. MacLean asked the Prime Minister whether, in the negotiations connected with the renewal of the Anglo-Japanese Treaty of 1911, the Government has informed the Japanese Government that the provision included in the Treaty of 1911 that both Great Britain and Japan shall respect the territorial rights of the high contracting parties in China shall not be renewed until the question of the spheres of influence and treaty rights of the great Powers in China have been considered by the League of Nations. The following dialogue then took place:—

Mr. BONAR LAW: Negotiations in the sense indicated are not in progress and therefore the question does not arise.

Mr. MACLEAN: Are any negotiations being conducted meantime between this country and Japan for a renewal of the Anglo-Japanese Treaty?

Mr. BONAR LAW: I have said that negotiations are not being continued.

I have [etc.]

ROBERT P. SKINNER

741.9411/48 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, July 26, 1920—11 a.m.

[Received July 26—4:20 a.m.]

364. My 346, July 15.⁹² Foreign Office has issued following *communiqué*:

"In view of the fact that the term of ten years for which the Anglo-Japanese Agreement of Alliance is provided to remain in

⁹² Not printed.

force expires on July 13, 1921, the Governments of Japan and Great Britain after an exchange of views addressed the following joint communication to the League of Nations on July 8th.

'The Governments of Japan and Great Britain have come to the conclusion that the Anglo-Japanese Agreement of July 13, 1911 now existing between their two countries though in harmony with the spirit of the Covenant of the League of Nations is not entirely consistent with the letter of that Covenant which both Governments earnestly desire to respect.

They accordingly have the honor jointly to inform the League that they recognize the principle that if the said agreement be continued after July 1921 it must be in a form not inconsistent with that Covenant.'

BELL

**EMPLOYMENT OF BRITISH CABLE SHIPS IN ILLEGAL ATTEMPT
BY THE WESTERN UNION TELEGRAPH COMPANY TO LAND
CABLES ON FLORIDA COAST**

**Refusal by the United States Government to Grant the Western Union
Telegraph Company Permission to Land a Cable at Miami from Barbados—
Efforts by the British Authorities to Deter British Cable Ships from
Attempting to Land the Company's Cable on the Florida Coast**

811.73/219a

The Secretary of State to President Wilson

WASHINGTON, July 17, 1920.

MY DEAR MR. PRESIDENT: I deem it important to invite your attention to certain serious difficulties that have arisen between the authorities of the Government and the Western Union Telegraph Company.

The Company desires to land a cable at Miami, Florida, which will connect at the Island of Barbados with a cable belonging to the Western Telegraph Company, a British cable company which has a monopoly of cable facilities in Brazil, to the rigorous exclusion of competing American lines. There has been much complaint from Americans doing business in territory served by this Company, that private messages have been postponed in delivery and their contents revealed, to promote British interests at the expense of American.

It has been held by the Attorney General, and his opinion has been sustained by the lower Federal Courts, that, in the absence of congressional legislation, the President has the power to control the landing of foreign submarine cables on the shores of the United States, and that he may prevent the landing or permit it on conditions which will protect the interests of this Government and its citizens.

The Department of State has received information that the Company is proceeding with a view to making a connection at Miami without obtaining the required permit. It is important that appropriate

steps be taken to prevent such a violation of the law, and I believe it will be in the interest of the Government to impose important conditions on the landing of a cable. The Company is evidently seeking to avoid such conditions.

I therefore recommend that you authorize the cooperation of the Navy Department, the War Department, and the Department of Justice with a view to preventing the Company from landing a cable in defiance of the law.

Faithfully yours,

BAINBRIDGE COLBY

811.73/285

President Wilson to the Secretary of State

WASHINGTON, 20 July, 1920.

MY DEAR MR. SECRETARY: I have your letter of July seventeenth about the landing of the cable at Miami, Florida, and in reply suggest that we postpone such questions until the international conference on communications has discussed the whole matter and we have before us a general plan by which we can shape our various decisions in matters of this sort.

I beg that you will seek the cooperation of the Departments of War, Navy and Justice in preventing the Western Union Telegraph Company from landing a cable in defiance of the law, and request that you show them this letter as their authorization to comply.

Cordially and faithfully yours,

WOODROW WILSON

811.73/235a

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, July 30, 1920.

MY DEAR MR. AMBASSADOR: I deem it my duty to call your attention to the following matter as presenting some possibilities of complication and misunderstanding unless fully understood beforehand and promptly treated.

The Western Union Telegraph Company, or one of its subsidiary companies, has recently applied for permission to land a cable at Miami, Florida, which is to connect at Barbados, or some point in that vicinity, with cables owned and operated by the Western Telegraph Company, Limited, thus effecting a through line to points on the east coast of South America which are served exclusively by the Western Telegraph Company, Limited.

This Government has not yet seen fit to issue a license for this landing and will probably hold the matter under consideration until the International Communications Conference meets on September 13th.

Information has reached the State Department that an effort may be made to effect a landing of this cable at Miami despite the fact that the license is withheld, and we are informed that the British cable steamer *Colonia* is on its way from Plymouth to some point near Miami, prepared to land a cable as above stated.

This Government could not suffer this to be done, and measures have been taken to physically prevent it, instructions having already been issued to the Navy to safeguard the Government's position.

In view of the fact that the vessel employed for this purpose is a British vessel, it would be much appreciated if a timely warning could be conveyed to its master, who is doubtless wholly unaware of the illegality of the proceeding. I would greatly regret the complications which might result if the official opposition to this landing were disregarded.

I beg to remain [etc.]

BAINBRIDGE COLBY

811.73/262

*Memorandum by Mr. William R. Vallance of the Office of the
Solicitor for the Department of State*

[WASHINGTON,] July 31, 1920.

On July 30, 1920, at 2:30 p.m., the Secretary of War, Admiral Coontz, Acting Secretary of the Navy, Judge Ames, Acting Attorney General, the Under Secretary of State, Mr. Davis, the Third Assistant Secretary of State, Mr. Merle-Smith, the Solicitor, Mr. Nielsen, Captain Freeman of the Navy Department, and Mr. Vallance of the Solicitor's Office, attended a conference at the Office of the Secretary of State regarding steps to be taken to prevent the landing of a cable at Miami, Florida, by the Western Union Telegraph Company. The conference was held as a result of the letter of July 20, from the President directing that joint action should be taken between the Departments of War, Navy, Justice, and State to prevent the landing of this cable.

Judge Ames for the Department of Justice expressed the opinion that the Executive had the power to take measures to prevent the landing of the cable in question without resort to the courts. Reference was made to the opinion of Attorney General Black dated September 29, 1857, (9 Op. Attys. Genl. 106) relative to an attempt of a railroad company to lay its tracks across a military reservation.

The Secretary of War was advised that the Executive had full power to prevent the laying of the tracks in question, as it amounted to an invasion of the rights of the Executive Department. See copy of the opinion attached hereto.⁹⁴ See also *Guthrie vs. Hall*, 1 Okla. 454 (1891).

Secretary Baker stated that he was prepared to take necessary steps along similar lines to prevent laying the cable from the sandbar at Miami into the ocean. Admiral Coontz stated that he had already dispatched two destroyers and a sub-chaser to prevent the landing of the cable from the high seas. At Mr. Nielsen's suggestion it was agreed that the Navy Department should take no preventative action outside the three mile limit. A warning might properly be given outside the three mile limit, but no affirmative action against the cable ship *Colonia*. Admiral Coontz stated that the Gulf Stream came in close to the shore at the point where the cable would be laid, and that it was deep enough at two miles out for a destroyer to come, if necessary. He also stated that Admiral Decker, the Commandant at Key West, had been ordered to Miami to be on the ground to see that no cable was laid.

Secretary Baker stated that he would have instructions sent to the Commandant of the Southeastern Department to cooperate with Admiral Decker, and that a sufficient military force would be dispatched to assist if necessary.

Judge Ames stated that he would instruct the United States Attorney for the Florida District to go to Miami and cooperate with the Navy and War representatives, and take all necessary steps to prevent the landing of the cable.

The Under Secretary of State, Mr. Davis, suggested that it might be advisable, as the *Colonia* was a British ship flying the British flag, to informally communicate the decision of this Government to the British Ambassador so that he would understand in advance the reason this Government prevented the British ship *Colonia* from proceeding to land the cable.

Mr. Boal of Mr. Merle-Smith's office informs me that he has taken up with Mr. Bannerman the matter of obtaining a report from the Department's representative at Miami concerning the exact status of the construction work and laying of the cable. Colonel Kimball of the War Department, Branch 1705, informs me that orders have been prepared and are being forwarded to the Commander of the Southeastern Department this afternoon.

W[ILLIAM] R. V[ALLANCE]

⁹⁴ Not printed.

S11.73/234

Memorandum by Mr. P. L. Boal of the Office of the Third Assistant Secretary of State (Merle-Smith)

[WASHINGTON,] August 5, 1920.

MY DEAR MR. MERLE-SMITH: Mr. Peterson of the British Embassy came in this morning to talk about the Western Union landing at Miami and the movements of the British ship *Colonia*.

He stated that instructions had been given to the master of the *Colonia* to report to his vice-consul at Miami, and that the master had replied that he would comply with these instructions. He then stated that he had cabled the Foreign Office in London a detailed account of the case.

He seemed somewhat perturbed by the prominence the case has been given in the press in New York . . . making it appear that the American Government was preventing an attempt on the part of the British to land an English cable. I told him that you had consulted the British Embassy in the matter, because of the fact that the *Colonia* is a British ship and we felt that we could not presume to in any way intercept or attempt to regulate the movements of a British ship in this case, outside of our territorial waters, and that it was properly the function of the British Embassy to deal with its nationals in this matter; that we greatly appreciated the courteous action of the British Government in instructing the cable ship to cease all operations and report to the vice-consul at Miami; that this was a matter which might easily be seized upon by trouble-makers, both in this country and abroad, just which apparently had been done this morning in New York, if it went any further; that we felt that it was to the advantage of everyone concerned to hold open such questions of cable landings until after the Preliminary Conference on Communications, and that we felt sure that the British Government would be inclined to cooperate with us to prevent any unnecessary discussions from arising between their nationals and ours in a case of this kind.

I added that we had every intention to be firm with the Western Union and see that the President's orders were not defied. I explained that the Western Union apparently intended to order the *Colonia* to lay a cable from Barbados to connect with the cable which extends from Halifax to Havana, thus establishing a round-about connection to the United States from Barbados, either through Key West or Halifax. (I showed him exactly how this would come about on the map).

I told him that we might be inclined to question the propriety of such a step on the part of the Western Union as it would

effectively create a link between the United States and a foreign country, and that the particular link—United States—Barbados—had not been contemplated or authorized when the Key West to Havana cables were laid; that the British telegraph companies from Halifax to the United States would be placed in the position of completing this link—Barbados—United States—via Halifax—and that while they might possibly form a link in this system if they desired to do so, I did not know whether or not the British Government would desire to have them form a link in this system, inasmuch as it would be, in a way, contrary to the spirit of the President's orders that the Western Union should not be allowed to create a physical connection between Barbados and the United States.

I added that we had no intention of taking any steps with regard to the *Colonia*, and that we left the matter of her further movements entirely to the discretion of the British Embassy.

Mr. Peterson then said that the Embassy had been greatly pleased with the Secretary's announcements which appeared in this morning's Washington papers, putting the matter in its proper light; that he very well understood our attitude in the matter and appreciated our action in advising the British Embassy, and that he would at once telegraph to his Government recommending that pressure be brought to bear, either on the owners or the charterers of the *Colonia* to have her ordered to return to British waters at once and remain there until a decision had been reached regarding the Western Union's permit to land a cable, and that, failing action on the part of the owners or charterers, he felt certain that the British Government would itself issue the necessary orders to the ship to oblige her to return to British waters before entering into any cable operations and remain there; and that the British vice-consul had been instructed to see that the *Colonia* cease all activities with regard to cable laying until definite instructions with regard to the *Colonia's* future course had been received from the Foreign Office.

Mr. Peterson's attitude was extremely cordial and plainly indicated that the Embassy had every intention of cooperating fully with the State Department in order to avoid any further action in the matter which might be contrary to the President's desires.

P[IERRE] L. B[OAL]

811.73/255a

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, August 5, 1920.

MY DEAR MR. SECRETARY: The *Colonia*, a British cable ship employed by the Western Union Telegraph Company, is on its way to

Miami, Florida, apparently with the intention of laying a cable, either from the coast of Florida to Barbados, or from a point outside the three-mile limit, opposite Miami, to Barbados.

No permit for physical connection between the United States and Barbados has been issued, by the President, and, in compliance with his letter of July 20, 1920, copy attached,⁶⁵ and with the decisions arrived at in a meeting held in the Department of State on July 30, 1920, at which Admiral Coontz was present as Acting Secretary of the Navy, the Navy Department determined to send a number of vessels to police our territorial waters off Maimi, Florida.

The British Government has today instructed the master of the British ship *Colonia* to desist from laying any cable, either outside or inside the three-mile limit, and to report to the consul at Miami for instructions, and the *Colonia* has answered, stating that it will comply with the British Embassy's orders.

In case the British consul at Miami does not prevent the *Colonia* from continuing her operations, it is not contemplated that the ships patrolling the Florida coast should take any action outside of the three-mile limit, but it is desired that, in accordance with the decisions arrived at in the meeting of July 30, 1920, and the instructions which, it is understood, have already been issued to the patrolling vessels by the Navy Department, the British ship *Colonia*, or any ship, tug, or boat, be prevented from laying a cable or establishing connection with already existing cables within the territorial waters of the United States without a permit signed by the President.

I understand that before leaving Newport News, the *Colonia* discharged four and four-tenths miles of cable and paid duty on it, and that this cable is to be taken to Miami by the American tug *Robert Clowry*, which our last reports show to have left Newport News. This would indicate that it is proposed to make a physical connection at Miami within a few days or weeks.

I also wish to call your attention to the fact that as the Western Union Telegraph Company has obtained a concession to lay a cable from Barbados to Cuba, and their already existing cables from Key West are being worked to capacity, it is possible that the *Colonia* will proceed to Key West in company with or followed by the tug, and attempt to land a cable there.

May I point out the fact that a landing license was granted to the Western Union Telegraph Company in 1917 to lay three submarine cables from Key West to Cuba. These three cables have already been put in. No additional cable can be lawfully laid. Inasmuch as any additional cable would create a new physical connection with Cuba, unless a specific permit therefor can be shown,

⁶⁵ *Ante*, p. 687.

the laying of such a cable would appear to be an act contrary to the spirit of the President's instructions, as expressed in his letter of July 20, 1920. Should the occasion arise, I would suggest that the same steps be taken by the Navy Department to prevent the laying of a cable in our territorial waters as are being taken at Miami.

It is understood that the Navy Department is at present engaged in finding out the number of cables in operation or being established, by the various telegraph companies, between Key West and Cuba. I may add that no telegraph or telephone companies have been authorized to lay any new cables for the purpose of connecting Key West with Cuba, and should be prevented from laying such cables should they attempt to do so.

I am [etc.]

BAINBRIDGE COLBY

811.73/248

Memorandum by the Third Assistant Secretary of State (Merle-Smith)

[WASHINGTON, August 7, 1920?]

Memorandum of telephone conversation with Mr. Peterson, Chargé of the British Embassy.

Mr. Peterson stated that the Foreign Office informed him they were attempting to have *Colonia* return to British waters, but that he had just received a telegram from the British Consul at Miami that Admiral Anderson had told the master of the *Colonia* that he would make no objections to the laying of the cable outside the three mile limit. Peterson stated he did not want to be more severe than we were in regard to the actions of the *Colonia*, as the British Government might be liable to action for interference with charter rights if it should turn out that the Department would grant a license for the landing of the cable in the near future. I stated the Department did not feel itself able to take any position in regard to a British ship laying cables outside the three mile limit which in itself was not a violation of the law, and that I felt as to his own decision that it was a matter to be looked upon from their own interest as to whether or not, in order to avoid publicity which might possibly be embarrassing, it would be advisable to recall the *Colonia* to British waters. He stated that he felt it would be advisable from their point of view to avoid any possible source of friction and that he would therefore confirm his previous instructions in regard to the ship desisting in laying any cables either inside or outside the three mile limit.

VAN S. M[ERLE]-S[MITH]

811.73/246

The Acting Secretary of the Navy (Coontz) to the Secretary of State

WASHINGTON, August 9, 1920.

SIR: There is transmitted herewith a copy of a dispatch from Rear Admiral E. A. Anderson,⁹⁶ supervising the naval operations in connection with the prevention of the laying of a submarine telegraph cable off Miami and Key West, and the reply of the Department⁹⁷ indicating a suspension of action until the matters in question could be referred to the Department of State. Admiral Anderson has already been informed that no license or permit exists for the running of new telephone or telegraph cables between Key West and Cuba.

It would appear that the Master of the *Colonia* has definitely decided to comply with the wishes of the British Ambassador, and although that vessel will be kept under observation so long as she remains in the vicinity of Miami or Key West, her movements will not be otherwise interfered with. The question at issue which has not been met by any decision so far is the further disposition of the Tug *Robert Clowry*, which is carrying the shore end of the submarine cable proposed to be run between Miami and Barbados. If the tug is permitted to proceed to Key West and place the cable it now has on board, in the company tank at Key West, there develops a situation in which the Western Union Company has at its immediate disposal a length of cable which can be quickly run from a point on the Florida coast out to sea and beyond the three mile limit. The Western Union Company has shown a disposition to evade the law and there arises a question as to whether the presence of this cable at Key West will not give the company a signal advantage in case an evasion of the law is persisted in.

As matters now stand, the *Robert Clowry* will be held off Miami upon her arrival. A decision as to further disposition of this tug is requested of the Department of State.

Sincerely yours,

R. E. COONTZ

811.73/246

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, August 10, 1920.

SIR: I have the honor to acknowledge the receipt of your letter of August 9, 1920, in which you request an expression of the opinion

⁹⁶ Not printed.

⁹⁷ Not found in Department files.

of this Department as to what disposition is to be made of the *Robert Clowry*, which is carrying the shore end of the submarine cable proposed to be run between Miami and Barbados. You state that "if the tug is permitted to proceed to Key West and place the cable it now has on board in the company tank at Key West, there develops a situation in which the Western Union Telegraph Company has at its immediate disposal a length of cable which can be quickly run from a point on the Florida coast out to sea and beyond the three mile limit."

In reply I have the honor to state that it is my opinion that pursuant to the President's directions the landing of the cable in question either at Miami or at Key West should, by appropriate means, be prevented by the Navy Department.

I have [etc.]

BAINBRIDGE COLBY

811.73/301

Memorandum by the Third Assistant Secretary of State (Merle-Smith)

[Extract]

[WASHINGTON, August 16, 1920?]

Memorandum of conference between the Secretary of State, the Secretary of the Navy, Admiral Coontz, Captain Freeman, Mr. Metzger and Mr. Merle-Smith.

Miami Cable Landing. Admiral Coontz reported that the *Colonia* in disregard of the orders of the British Embassy had started laying the cable outside the three mile limit and had proceeded south about three hundred miles the first day and that a destroyer was following it, keeping it in sight, and that it would appear that the cable was being laid to Barbados. He said that the destroyer would keep her in sight to keep special watch on the laying of the cable to Cuba. It was felt that little could be done to prevent the ship from laying the cable outside the three mile limit.

Admiral Coontz also reported that the tug carrying the short four mile section of the cable had proceeded north from Savannah after being warned that they could not land the cable at Miami. It was decided that the destroyer guard would be kept at Miami. It was also understood that the military guard would still remain. It was decided that we should maintain the *status quo* at Miami and that if a cable was landed it would be cut at once and hauled beyond the three mile limit.

VAN S. M[ERLE]-S[MITH]

811.73/452

The Acting Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, December 11, 1920.

SIR: I have the honor to refer to your letter of October 26, 1920,⁹⁸ (your file Op-13A 27014-20:) relative to the attempt of the Western Union Telegraph Company to land a cable from Barbados at Miami, Florida. I am enclosing herewith, for your consideration, a copy of a letter dated December 8, 1920,⁹⁹ received by this Department from the attorneys for the Cuban American Telephone and Telegraph Company. The Department hopes to reach an agreement regarding the terms of a permit which will authorize the Cuban American Telephone and Telegraph Company to lay its proposed cable between Key West, Florida, and Havana, Cuba, and expects to submit a draft of the permit to the President for his approval at an early date.

As the enclosed copy of letter states that the cables ship *Stephan*, which it is intended shall lay the telephone cable for the Cuban American Telephone and Telegraph Company, also will have on board 205 nautical miles of cable for the Western Union Telegraph Company, I am bringing this matter to your attention in order that you may take such steps as you consider appropriate to prevent the *Stephan* from laying the 205 nautical miles of cable belonging to the Western Union Telegraph Company within the territorial waters of the United States, for the purpose of connecting with its cable from Barbados.

I shall be grateful if you will inform me concerning any action taken by your Department in this respect.

I may add that this Department hopes to reach an agreement with the Commercial Cable Company of Cuba at an early date, concerning the terms of a permit to be signed by the President which will authorize it to lay a cable from Miami Beach, Florida, to Havana, Cuba. If the President signs permits authorizing the Cuban American Telephone and Telegraph Company and the Commercial Cable Company of Cuba to land these proposed cables, I shall promptly inform you concerning it.

I have [etc.]

For the Acting Secretary of State:

VAN S. MERLE-SMITH

Third Assistant Secretary

⁹⁸ Not found in Department files.

⁹⁹ Not printed.

811.73/454

The Secretary of the Navy (Daniels) to the Acting Secretary of State

WASHINGTON, December 11, 1920.

SIR: I have the honor to refer to your letter (So 811.73/452), dated December 11, 1920, enclosing for my consideration a copy of a letter dated December 8, 1920, from the attorneys of the Cuban American Telephone and Telegraph Company.

It is noted that the cable ship *Stephan* which it is intended shall lay the telephone cable for the Cuban American Telephone and Telegraph Company will also have on board 205 nautical miles of cable for the Western Union Telegraph Company, and that this matter is brought to my attention in order that this Department may take appropriate steps to prevent the *Stephan* from laying the 205 nautical miles of cable belonging to the Western Union Telegraph Company within the territorial waters of the United States, for the purpose of connecting with its cable from Barbados.

In this connection I would respectfully recommend to the State Department that the fact that the cable steamer *Stephan* is carrying 205 nautical miles of cable for the Western Union Telegraph Company, be reported to the British Government, and that recommendation be made that the British Government direct the Master of the cable steamer *Stephan* not to lay this cable in the United States or connect it up without the express permission of the United States Government. This is suggested to the State Department as a step to be taken, pending further consideration of this matter.

Sincerely yours,

JOSEPHUS DANIELS

811.73/465

Memorandum by the Third Assistant Secretary of State (Merle-Smith)

[WASHINGTON,] December 20, 1920.

MR. VALLANCE: I telephoned the British Embassy Saturday and talked to Mr. Tennant.¹ I informed him of the situation, telling him that we must at least have some security that the cable would not be laid within the territorial waters of the United States to avoid embarrassing complications; that the best thing to do would be to have the cable taken off the vessel in England. He said he agreed with me that this should be done and would telegraph Lon-

¹ Mr. H. V. Tennant, Secretary, temporarily attached to the British Embassy.

don in regard to the matter, and that if they could not have that done they would try and arrange for some assurance which would satisfy us.

VAN S. M[ERLE]-S[MITH]

811.73/488

The Secretary of the British Embassy (Craigie) to the Third Assistant Secretary of State (Merle-Smith)

No. 841

WASHINGTON, December 29, 1920.

MY DEAR MR. ASSISTANT SECRETARY: After your telephone call on December 18th, His Majesty's Ambassador did not fail to cable to the Foreign Office for information with regard to the cable ship *Stephan*.

Sir Auckland has now received a reply to the effect that this vessel was to have carried 200 miles of cable for the Western Union Company to the western Atlantic, none of which was to have been laid in United States territorial waters.

The Foreign Office add that the ship will not now carry any such cable.

Believe me [etc.]

R. L. CRAIGIE

811.73/488

The Acting Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, December 30, 1920.

SIR: I have the honor to acknowledge the receipt of your letters of December 11 and December 16, 1920,² relative to 205 nautical miles of cable belonging to the Western Union Telegraph Company, which were reported to be on board the cable ship *Stephan*.

I take pleasure in informing you that information has now been received that the cable ship *Stephan* will not now carry the cable in question.

With reference to the last paragraph of this Department's letter of December 11, 1920, I have the honor to state that the President on December 11, 1920, signed a permit authorizing the Cuban-American Telephone and Telegraph Company to lay, land, maintain and operate three telegraph-telephone-submarine cables at Key West Florida, connecting Key West with Habana, Cuba. As it is expected that the cable ship *Stephan* will lay this cable it is suggested that you may consider it desirable to bring this information

² Letter of Dec. 16 not printed.

to the attention of the Naval Officer in charge of operations at Key West so that this cable can be laid without any interference.

I have [etc.]

NORMAN H. DAVIS

AMERICAN ALLEGATIONS OF INTERFERENCE WITH CABLEGRAMS
PASSING THROUGH GREAT BRITAIN

841.731T67/114

The British Ambassador (Geddes) to the Secretary of State

No. 713

WASHINGTON, 2 November, 1920.

SIR: I have the honour to state that the British Delegates to the International Conference on Communications have derived the impression that the attitude of the United States Government with regard to the allocation of the ex-German cables is to some extent influenced by allegations that commercial cablegrams passing between American firms and firms on the continent are intercepted by the British authorities and purposely delayed or improper use made of the information which they contain.

The members of the British Delegation and I myself are convinced that there is no foundation for these charges. The delegates have on more than one occasion asked their American colleagues to furnish them with full information on the subject in order that careful enquiry may be made. The American delegates have replied that the firms from whom their information was derived are reluctant to disclose their own names or those of their correspondents to the British Government for fear lest they should expose themselves to some form of reprisals.

I need hardly assure you that any such idea is utterly foreign to the intentions of His Majesty's Government who are only anxious for the information in order that they may remove any possible cause for complaint. Charges of the same nature have, however, been brought against His Majesty's Government more or less publicly, and I feel that you will agree that the reiteration of such charges would leave His Majesty's Government no option but to make an equally public reply and to intimate that enquiry had failed to elicit any evidence in support of these statements.

I earnestly trust therefore that as a result of the assurance contained in this note the United States Government may see their way to furnish the British Delegates with the information for which they have asked.

I should add that the British Delegates cannot but feel that the charges are inspired by persons interested in creating friction between our two countries and are but a repetition of similar

efforts made towards the end of the year 1918. It is for this reason that the Delegates are anxious to examine the facts closely and feel confident they may rely on the full cooperation of the United States Government in the matter.

I have [etc.]

A. C. GEDDES

841.731T67/114

The Acting Secretary of State to the British Ambassador (Geddes)

WASHINGTON, December 21, 1920.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 713 of November 2, 1920, in which you state that the British delegates to the International Conference on Communications have derived the impression that the attitude of the United States Government with regard to the allocation of the ex-German cables is to some extent influenced by allegations that commercial cablegrams passing between American firms and firms on the continent are intercepted by the British authorities and purposely delayed or improper use made of the information which they contain. You state that your Government is anxious to obtain specific information on this subject in order that any possible cause for complaint may be removed. You add that charges of this nature have been brought against your Government more or less publicly and that reiteration of these charges would leave your Government no option but to make an equally public reply and to intimate that inquiry had failed to elicit any evidence in support of these statements.

In reply I have the honor to state that in reliance upon the assurance contained in the third paragraph of your note, this Government is transmitting herewith a memorandum* setting forth specific complaints relative to the following subjects:

1. Delays in the Transmission of Messages Alleged to Have Taken Place While Under the Control of the British Authorities.
2. Complaints Regarding the Suppression of Messages.
3. Complaints That Information Obtained Through Censorship Was Used by British Concerns.

As the memorandum enclosed herewith contains information of a somewhat confidential character, I have the honor to request that no publicity be given to it.

A statement containing the data set forth in the enclosed memorandum has been delivered to the Chairman of the British Delegation to the International Conference on Communications.

* Not printed.

I may add that these complaints indicate the reasons that cause American business interests to consider it important to have cable facilities operated by Americans free from foreign censorship and control.

I have the honor to state that the Department assumes no responsibility for the sentiments expressed by the writers of some of the communications included in the memorandum, which are of course merely expressions of individual opinion. It seemed not only impracticable in many cases to eliminate these expressions from those portions of the communications necessary to an understanding of the matters complained of, but also it seemed fair to all parties that the impression produced on the writers of the letters by the circumstances complained of, as well as any bias which they might have in the premises, should be disclosed in their own language.

I may state in conclusion that, while this Government has not implied that the British Government has been guilty of any such practices, the sentiment does exist. Furthermore, this sentiment is going to be difficult to dispel as long as the British Government exacts from the cable companies operating in England, the delivery of all the messages which they handle.

Accept [etc.]

ALVEY A. ADEE

841.731T87/127

The British Ambassador (Geddes) to the Secretary of State

No. 209

WASHINGTON, *March 10, 1921.*

SIR: With reference to the note which your predecessor was so good as to address to me under date of December 21, 1920, with regard to alleged delays and interference on the part of His Majesty's Government with cablegrams passing between the United States and foreign countries, I have the honour to inform you, on instructions from my Government, that the contents of Mr. Colby's [*Mr. Adees*] note have been most carefully considered and that His Majesty's Government wish to make the following reply to the statements contained therein.

In none of the instances specifically referred to in Mr. Colby's [*Mr. Adees*] note has the information originally requested by the British Delegation to the recent Conference on Communications—namely the dates of the telegrams and the names of both correspondents, (which should include the office of handing in and the full address)—been supplied. Without this information it is obviously impossible to trace the telegrams, especially as fifty two out of the

fifty six complaints are some two years old, dating from the period immediately after the armistice with Germany, while one or two apparently arose during the war itself. Of the four complaints dated 1920 two are identical, the writer's name being given in one case and his desire to remain anonymous being stated in the other. The latest in date (December 8th, 1920) speaks of an improvement in the service generally and does not even suggest that His Majesty's Government are in any way responsible for the former delays.

The censorship was maintained for some time after the armistice for reasons with which the United States Government was fully acquainted, but neither the censorship nor any other Department of His Majesty's Government was responsible for the delays or errors which occurred in the transmission of innocent telegrams. These, in so far as any of the telegrams passed between the United Kingdom and the United States, were partly due to the congested state of the cables between the two countries, all of which cables are, without exception, leased to or owned by the (American) Western Union and Commercial Cable Companies. Delays to all telegrams, not only American, between the United Kingdom and Europe were also occasioned during the period in question by the disorganisation of the telegraph services to and in the continent of Europe, particularly Germany, this being one of the inevitable consequences of the war, while in many of the cases quoted—e.g. of telegrams to and from Spain, France, the Orient, South America and other parts of the world—no proof is given that such telegrams ever passed through British territory or over British cables at all.

The allegation that British firms were allowed access to information derived from the censorship is untrue and is supported merely by hearsay and second or third hand statements made by persons, whose sentiments were, as the State Department admit, coloured by their personal feelings.

Reports of this nature were notoriously spread by enemy agents on several occasions during and after the war, with the sole object of creating friction between His Majesty's Government and the United States. The continued dissemination of such reports, based only on vague insinuations made some two years ago, show that their authors are still inspired by that object and that they can produce no evidence in support of their allegations.

In none of the cases mentioned in the note is any proof given that the failure of correspondents to reply to telegrams was not due to the action of those correspondents themselves, but in this connection the United States Government will recollect that, after the entry of the United States into the war, United States officers were working in the British Censor's Office and, as His Majesty's Government are

aware, those officers regard as unfounded the charges of this nature brought against the British censorship.

His Majesty's Government appreciate the observation made by the State Department that it "assumes no responsibility for the sentiments expressed by the writers of some of the communications included in the memorandum, which are of course merely expressions of individual opinion."

The State Department, however, also observes that "these complaints indicate the reasons that cause American business interests to consider it important to have cable facilities operated by Americans free from foreign censorship and control."

It is precisely because American business interests have founded their opinions on vague charges, for which no proof is forthcoming, that His Majesty's Government feel bound to give the fullest publicity to the whole correspondence, in the hope that this source of misunderstanding may be finally removed.

The only telegrams referred to in the memorandum of the United States Government which it has been possible to trace with the aid of the two American Cable Companies, who retain the original forms, are eleven of those from the United States Military Mission in Berlin mentioned in the penultimate paragraph of the memorandum. A statement in which the delay sustained by these telegrams has been analysed is enclosed.⁴ It will be seen that the average interval between the times at which the messages were received from Germany by the British Post Office and the times at which they were received at the offices of the American Companies in London was only forty minutes. There was considerable delay in the despatch of the messages from Germany; but it may be mentioned that eight of the eleven messages were despatched in March 1920, at a time when Germany was, as the United States Military Mission was doubtless aware, in the throes of a revolution and the telegraph service was thoroughly disorganised. Some of the messages appear to have sustained considerable delay after being transferred to the American Companies; but the Companies state that they were dispatched from London without undue delay; and in the most serious case (No. 205) the Commercial Cable Company suggest that the date of delivery has been mis-stated in the memorandum. Possibly the United States Government may wish to pursue the enquiry with the Companies as regards the treatment of the messages after their dispatch from the United Kingdom.

In this connection it should be added that the American Cable Companies have their own cables between the United Kingdom and France, and that since the latter part of 1919 special wires between

⁴Not printed.

England and Holland and Belgium respectively have been leased by His Majesty's Government to the Western Union Company. A large proportion, therefore, of the United States-Continental traffic passing through the United Kingdom is dealt with throughout by American Cable Companies and is not handled by the British Post Office at all.

His Majesty's Government much regret that the United States Government desire that the memorandum containing the names of the persons who have made the complaints should be regarded as confidential, as His Majesty's Government would have preferred to reply to each case individually. His Majesty's Government can however only defer to the wishes of the United States Government in this respect, but in these circumstances they must emphasise the untrustworthy nature of communications made by persons and firms unwilling to allow their names to be quoted in support of their statements.

I should be glad to learn at as early a date as possible whether the United States Government see any objection to the proposal of His Majesty's Government that publicity should be given to the correspondence which has passed between the two Governments on this subject.⁵ A proof of the papers would, of course, be submitted to the United States Government in the customary manner.

I have [etc.]

A. C. GEDDES

FISHERIES (CANADA)

(See volume I, pages 387 ff.)

⁵ Papers on this subject were published by Great Britain in Parliament Papers (Cmd. 1230) : United States No. 1 (1921) "Correspondence Respecting Alleged Delay by British Authorities of Telegrams to and from the United States".

GREECE

RECALL OF KING CONSTANTINE

Defeat of Venizelos at the Polls, and Plebiscite Calling for the Return of King Constantine—Question of the Recognition of King Constantine by the United States

868.01/27 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, October 27, 1920—1 p.m.

[Received October 28—6:46 a.m.]

234. Ministry has summoned to throne through Greek Minister at Berne, Prince Paul, younger brother of deceased King, in accordance with its interpretation of constitution. Will insist upon definite and final renunciation of all rights to throne by ex-King Constantine and his son George as a condition of Paul's acceptance. Pending decision and arrival of Prince Paul a regency will be established by act of Parliament which has been summoned to meet tomorrow. Ministry will nominate as Regent Admiral Coundouriotis retired who is highly respected by all political parties although he was one of the leaders in the Saloniki revolution. Date of King's funeral will be announced today.

CAPPS

868.00/214 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, November 2, 1920—8 p.m.

[Received November 3—10:13 a.m.]

241. Decree of Regent on behalf of Ministry gazetted today postponing elections one week until November 14th in order to permit full and free discussion of dynastic problem now confronting Greece. Prince Paul acting in harmony with Opposition, which is avowedly Constantinist in sentiment, accepts invitation to throne on condition that people first make clear by plebiscite that they do not desire either Constantine or former Crown Prince George as their King. Venizelos Party declines to submit this question to plebiscite but asks electors for vote of confidence at the coming elections on the

basis of the Ministry's interpretation of the constitutional situation in accordance with which they have invited Paul to the throne.

CAPPS

868.00/222 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, November 15, 1920—9 p.m.

[Received November 16—8:25 a.m.]

250. Venizelos concedes his personal defeat and probably that of Liberal Party. He has stated to Council of Ministers that in any case he will retire from leadership if he has not the confidence of a majority in old Greece. Success of Opposition due not to actual popular majority which competent observers regard as undoubtedly Venizelist but to well planned and executed political trick. . . . No great disorder at present but feeling extremely tense. Private secretary of Venizelos advises presence of United States destroyer fearing riots and possibly *coup d'état*. Four British war vessels in port. Venizelos is determined not to countenance use of force on the part of his friends who are infuriated. British Minister says that in case of Constantine regime coming to power he will be probably recalled inasmuch as British Government cannot possibly regard Constantine as the ruler of a friendly government.

CAPPS

868.00/226 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, November 18, 1920—6 p.m.

[Received November 19—10:47 a.m.]

253. Decree was issued yesterday by Regent Coundouriotis accepting resignation of Venizelos and announcing that he had sworn in Demetrius Rhallys as President Ministerial Council. Rhallys refused to permit metropolitan to administer oath as owing priestly office to an illegal government. First act of Rhallys was demand for Coundouriotis' resignation on the ground that late Parliament lacked authority to make him Regent. Coundouriotis however first demanded oaths of new Ministry and then resigned. Rhallys then called upon Dowager Queen Olga, appointed and swore her in as Regent, received from her mandate to form a new Ministry and with new Ministers took oaths of office again before her. In proclamation Rhallys announces that Coundouriotis having resigned, the regency will be exercised according to constitution by Queen Olga

who has charged him with formation of Cabinet. That new Ministry will maintain order and endeavor to restore national unity destroyed by late oligarchy now overthrown by people and that henceforth all will be free and equal and will enjoy their full rights under protection of law. Olga has issued proclamation assuming regency in absence of Constantine whom she names as King saying regency will be of short duration and recognizing constancy of people during unfortunate period just ended. Thus the new government which has been called into power by Regent representing outgoing government disowns acts of that government including that by which it itself comes into power and is clearly preparing for recall of exiled King, has already invited the Princes to return. New Ministry as announced to Legation today is President and Minister of Foreign Affairs also *ad interim* of Justice Rhallys; of Interior P. E. [Tsaldaris]; of both Religion and Public Instruction Theodore Zaimis; of Finance N. Calogeropoulos; of National Economy P. Mavromichalis; of Communications *ad interim* P. E. Tsaldaris; of Agriculture *ad interim* P. Mavromichalis; of Public Assistance *ad interim* Th. Zaimis; Ravitaillement *ad interim* [Calogeropoulos]; of War B. Gounaris; of Marine Jean Rhallys, these two and other appointees announced by press but not officially confirmed. Rhallys announces that foreign policy of predecessor will be continued, especially friendly relations with Entente Powers but English and French Ministers here expect their Governments to continue to oppose return of Constantine which is apparently cornerstone of new government's policy. Parliament summoned for November 25th. Venizelos sailed yesterday noon for France; immediately after his departure marked relaxation of discipline among soldiers and police became noticeable and Athens entered upon orgy of remonstrations [*demonstrations*,] numerous officers participating and also political prisoners and those held for criminal attack on Venizelos who were promptly released. Venizelists kept quiet and few encounters took place. Chaotic condition of affairs to be expected for some time since all civil and diplomatic officers former government have resigned or will be removed and wholesale removals among higher officers of Army and Navy anticipated, their places to be taken by Royalists including many discharged officers and others awaiting trial for treason. Steps have already been taken to release officers held in Crete for betrayal of Macedonian garrisons to Bulgarians. American destroyer *Borie* has arrived and will remain for the present by orders Admiral Bristol. In view of semi-revolutionary character new government and announced policy toward the return of Constantine request Department's instruction.

868.00/232 : Telegram

The Minister in Greece (Capps) to the Acting Secretary of State

ATHENS, December 6, 1920—6 p.m.

[Received December 7—11:02 a.m.]

263. Plebiscite yesterday marked by considerable enthusiasm and no disorders. Venizelists and Labor Party abstained. Consequently practically whole vote cast was in favor of Constantine. . . . In spite of abstention of 45 per cent of voters in Attica [and] Boeotia total vote was 12,000 larger than in the recent general elections. Similar phenomenon observed generally and openly declared by government organs to be honest expression of people. . . . The plebiscite shows only what the general elections showed that perhaps 55 per cent of all the Greeks and probably 75 per cent of the population of old Greece really desire at this moment the return of Constantine at no matter what cost. For a large proportion of these this sentiment is of recent origin; as long as Alexander lived there was little popular discontent on the subject of the King though much activity on the part of the pro-Constantinists. Their organization proved most effective after King's death in the concentration of all the elements of discontent into a positive popular demand for the former King. The Government is expected to answer the Powers' collective note of Saturday by demanding their specific charges against Constantine and to summon him to the throne while the debate is progressing. Meanwhile the reactionaries are being restored to office . . . While awaiting instructions regarding Department's attitude toward present government and toward Royal Government soon to be expected, am abstaining from action that might seem to commit us though transacting business with present government as occasion demands.

CAPPS

868.001 C 76/19 : Telegram

The Minister in Greece (Capps) to the Acting Secretary of State

ATHENS, December 21, 1920—5 p.m.

[Received December 23—5:10 a.m.]

271. Return of Constantine Sunday evoked great popular enthusiasm. Foreign Missions did not participate in reception. King states in proclamation that returning in response to unanimous summons of people he will devote his life to their service, rigorously observing constitutional and parliamentary regime; seeking unity and peace at home and in foreign affairs, the complete rehabilitation of the Greek Nation in reliance upon the Army. He will follow

the traditional foreign policy cementing relations with the great Allied Powers and will strengthen ties with Servia. New connection with Roumania by double marriage of royal families referred to. Noticeable is absence of recognition of Venizelos' work and of any note of conciliation to Liberals also assumption of Royal prerogative to direct country's policy, a prerogative which King George wisely did not claim and which Venizelos declares is not granted by constitution. Recall of British and French Ministers received by them Friday has been revoked for present, reason unknown, but believed due to Italy as British Minister has notified Government that while remaining he will entertain no relationship King. Ministry has resigned *pro forma* but King requests it to continue in office until the contemplated Constituent Assembly shall have finished its work.

CAPPS

368.001 C 76/49

The Acting Secretary of State to President Wilson

WASHINGTON, December 28, 1920.

MY DEAR MR. PRESIDENT: The issue has arisen as to what attitude this Government should take toward King Constantine, recently returned to Greece. The American Minister has asked for new letters of credence.

King Constantine returned to Greece as a result of a Parliamentary election and a subsequent plebiscite which our Minister at Athens reports as showing that 55% of all the Greeks and 75% of the population of old Greece desire his return. You will remember that the Government of the United States, unlike that of Great Britain and France, took no active participation in the disputes which occurred prior to the expulsion of King Constantine. The records of the Department show that Mr. Droppers, the American Minister at Athens was duly accredited on October 9, 1914 to King Constantine and that subsequently, after the expulsion of the King, was given a new letter of credence to King Alexander on November 23, 1917. I am informed by my legal advisors that though new letters of credence are technically necessary on the installation of the new monarch, the Government of Greece as existing under Venizelos may legally be considered as continuing.

I have been informed that the Ministers of Great Britain and France had been ordered to leave Athens immediately but that the orders of recall were subsequently revoked, . . .

The French Embassy, stating that a decision had been reached by Great Britain and France to give no further credits to the

Government of King Constantine, suggested the desirability of the United States also suspending further credits. You will recall that a credit of \$38,000,000 was granted the Venizelos Government which amount was to be paid after peace was made. Though a ratification of the Treaties of Peace by the United States was considered a condition precedent to this obligation, a temporary arrangement was made to advance certain sums against this credit for the purchase of goods in the United States for consumption in Greece. Payments amounting to \$15,000,000 have already been made under this arrangement and a further advance of \$5,000,000 has now been requested. The Treasury has asked me whether the Department of State has any objection to the Treasury's proceeding to make the requested advance and whether the Treasury may deal with the new Government in Greece through the Chargé d'Affaires of the Legation for the purpose of negotiating this credit.

Faithfully yours,

NORMAN H. DAVIS

868.001 C 76/19 : Telegram

The Acting Secretary of State to the Minister in Greece (Capps)

WASHINGTON, December 30, 1920—5 p.m.

106. Your 265, 270,¹ and 271 concerning return of King Constantine to Greece. Department sees no reason why recognition should not be extended to King Constantine as soon as he assumes office and formally announces to this Government his accession to the throne, at which time you will be given new credentials.

DAVIS

NOTICE GIVEN BY THE GREEK GOVERNMENT OF THE DENUNCIATION OF THE TREATY OF 1837 WITH THE UNITED STATES; NOTICE WITHDRAWN—AGREEMENT AMENDING ARTICLE XVII OF THE TREATY

611.6831/19

The Greek Chargé (Tsamados) to the Acting Secretary of State

[Translation ²]

No. 416

WASHINGTON [, February 28, 1919.]

[Received March 1.]

MR. SECRETARY OF STATE: Pursuant to a decision arrived at by the Council of Ministers, the Hellenic Government, considering as

¹ Nos. 265 and 270 not printed.

² File translation revised.

terminated by the War the commercial conventions and other agreements by which it was bound to the enemy countries, has also decided generally to denounce the conventions of that character which establish the status of Hellenic economic relations with the Allied and neutral countries.

The decision is expressly aimed at the commercial treaties containing the most-favored-nation clause or tariff consolidations, as well as treaties and conventions relative to merchant shipping, customs regulations, commercial travelers' rules, the exercise of trade and industry, and generally all agreements likely to hamper the enforcement of the new commercial, industrial, maritime or customs status, which Greece may choose to adopt.

The decision does not only deal with commercial conventions or customs conventions properly so-called. It also affects treaties of establishment and consular conventions concluded by the Royal Government, on account of the stipulations of an economic bearing therein contained.

In bringing the foregoing to Your Excellency's knowledge, my Government directed me to inform you that Greece was moved to that course, not by a spirit of exclusiveness; it desires on the contrary to secure its freedom to adapt the regime of its foreign relations to the development it proposes to give to them in consonance with the new situations created by the war.

As, however, it would be impossible to replace these instruments at once, and in order to avoid any breach of continuity in the conventional relations existing between Greece and the United States of America, the Royal Government proposes to the Government of the United States to extend the life of those instruments until the day when peace is signed, and the clauses thereof being known, it will be in position to negotiate other conventions consistent with the desire of the Hellenic Government to promote its international relations.

Under those conditions it occurred to it that the convention contemplated in the present note (the term of previous notice therein provided having expired) might tacitly be extended for periods of three months.

I feel that I should add, for Your Excellency's information, that the same proposition has been made by the Hellenic Government to the foreign governments with which it had signed agreements of the same nature.

I have the honor, therefore, by order of my Government, to notify Your Excellency, that the commercial treaty of December 10/22, 1837, the ratifications of which were exchanged in London on June 13/25, 1838, will no longer be in effect twelve months from the date

of the present notice, which, as it is to produce its effect on March 1, 1920, will be given the date of March 1, 1919.

Be pleased [etc.]

M. TSAMADOS

611.6831/19

The Acting Secretary of State to the Greek Chargé (Tsamados)

WASHINGTON, March 25, 1919.

SIR: I have the honor to acknowledge the receipt on March 1, 1919, of your undated note,^{*} in which you refer to the decision of the Hellenic Government to denounce generally conventions "which establish the status of Hellenic economic relations with the allied and neutral countries," and by order of your Government notify me "that the commercial treaty of December 10/22, 1837, the ratifications of which were exchanged in London on June 13/25, 1838, will no longer be in effect twelve months from the date of the present notice which, as it is to produce its effect on March 1, 1920, will be given the date of March 1, 1919."

In acknowledging the Greek Government's notice of denunciation, as of March 1, 1919, of the treaty of December 10/22, 1837, I have the honor to inform you that the Government of the United States is not in a position to agree to the proposal of that Government, contained in your note, that in order to avoid any breach of continuity in the conventional relations existing between Greece and the United States of America, the life of the treaty be extended until the day when peace is signed (should this not occur until after the expiration of the twelve months from March 1, 1919, during which the treaty by its provisions will, after notice of denunciation, continue in force), or to the suggestion of the Greek Government that upon the expiration of the term during which the treaty will remain in force after notice therein provided, it be tacitly extended for periods of three months.

The postponement of the termination of the treaty in the manner suggested would in effect amount to continuing the treaty indefinitely, subject to termination upon three months notice by either party, whereas by Article XVII it is provided that the treaty may be terminated after its original term, upon the expiration of twelve months following notice given at any time by either party. The suggestion of the Greek Government amounts, therefore, in my opinion, to a proposal to modify the terms of an article of the treaty, a proposal which is not susceptible of execution on the part of the Government of the United States in the manner suggested, since there is no provision in the laws of the United States for making it so operative.

^{*} Note no. 416, Feb. 28, *supra*.

In the circumstances, therefore, the Government of the United States has no other course to pursue than to regard the Greek note received March 1, 1919, as notice given in accordance with Article XVII of the treaty of December 10/22, 1837, for the definite termination of that treaty on March 1, 1920, without temporary renewals from time to time by the High Contracting Parties. The United States, however, will be pleased to entertain any further proposal which the Greek Government may wish to present regarding the continuance of the treaty mentioned until the conclusion of a new convention on commerce and navigation.

Accept [etc.]

WILLIAM PHILLIPS

611.6831/24

The Secretary of State to the Greek Chargé (Tsamados)

WASHINGTON, October 28, 1919.

SIR: I have the honor to acknowledge the receipt of your note of October 14th,⁴ in which, referring to the Department's note of March 25, 1919, in reply to your note transmitting the Greek Government's denunciation as of March 1, 1919, of the Treaty of Commerce and Navigation concluded on December 10/22, 1837, you state that, in the event of no new treaty being concluded before March 1, 1920, the Royal Government of Greece offers to extend the 1837 treaty until December 31, 1920.

In reply, I have the honor to state that the extension of the treaty, at this time, until December 31, 1920, as suggested, would, in effect, be a modification of Article XVII which provides that the treaty may be terminated after its original term, upon the expiration of twelve months following notice given by either party at any time. In view of the form of constitutional government obtaining in this country the Government of the United States is unable, by Executive action alone, to agree to an amendment of a treaty provision and can not, therefore, so agree to the extension of the treaty in a manner, or for a period, other than contemplated by Article XVII.

In the circumstances, however, the Government of the United States suggests that the Greek Government may possibly desire to withdraw its notice of denunciation, so that the treaty shall remain in force until twelve months after a new notice is given by either party, in accordance with its provisions, or unless and until its provisions be modified by any treaty that may hereafter be negotiated between the two Governments. It would appear that by a

⁴Not printed.

withdrawal of the notice of denunciation prior to December 31, 1919, followed by a new denunciation on that date, the desire of the Greek Government to continue the treaty in force until December 31, 1920, could be attained.

In this connection, however, it may be stated that, until a notice of withdrawal is received from the Greek Government and accepted by the Government of the United States, the notice of denunciation of the Treaty of December 10/22, 1837, is regarded by the Government of the United States as having due force and effect, in accordance with the provisions of Article XVII of the treaty.

Accept [etc.]

For the Secretary of State:

WILLIAM PHILLIPS

611.6831/26

The Greek Minister (Roussos) to the Secretary of State

[Translation *]

No. 4

WASHINGTON, January 23, 1920.

MR. SECRETARY OF STATE: In reply to your note of October 28, 1919, relative to the denunciation of the treaty of commerce between the United States and Greece of December 16/22 [10/22], 1837, I have the honor to inform you that by an act of the Council of Ministers of Greece published in the *Official Journal* of December 27 the denunciation of that treaty, communicated to Your Excellency in the Legation's note no. 416 of February 28, 1919, has been canceled.

Be pleased [etc.]

G. ROUSSOS

611.6831/27

The Greek Minister (Roussos) to the Secretary of State

[Translation]

No. 82

WASHINGTON, January 24, 1920.

MR. SECRETARY OF STATE: Referring to my note No. 4 of yesterday I have, by order of my Government, the honor to inform Your Excellency that on the grounds set forth in the Royal Legation's note No. 416 of February 28, 1919, the Treaty of Commerce of December 10/22, 1837, whose ratifications were exchanged at London on June 13/25, 1838, will terminate twelve months from the date of the notice which, as it is to go into effect on January 26, 1921, will bear date January 26, 1920.

Be pleased [etc.]

G. ROUSSOS

* File translation revised.

611.6831/27

The Secretary of State to the Greek Minister (Roussos)

WASHINGTON, February 10, 1920.

SIR: I have the honor to acknowledge the receipt of your Note No. 4 of January 23, 1920, stating that by an act of the Council of Ministers of Greece published in the *Official Journal* of December 27 the denunciation, as of March 1, 1919, of the Treaty of Commerce between the United States and Greece of December 16/22 [10/22], 1837, communicated to this Government in the Legation's Note No. 416 of February 28, 1919, has been cancelled.

I have the honor also to acknowledge the receipt, on January 26, of your Note No. 82 of January 24, 1920, informing me by order of your Government that, —

“On the grounds set forth in the Royal Legation's note No. 416 of February 28, 1919, the Treaty of Commerce of December 10/22, 1837, whose ratifications were exchanged at London on June 13/25, 1838, will terminate twelve months from the date of the notice which, as it is to go into effect on January 26, 1921, will bear date January 26, 1920.”

In reply I have the honor to state that this Government accepts the Greek Government's withdrawal of its notice of denunciation of March 1, 1919, and that in accordance with the denunciation contained in your Note No. 82 the Treaty will continue in force until January 26, 1921.

Accept [etc.]

ROBERT LANSING

611.6831/27

The Secretary of State to the Greek Minister (Roussos)

WASHINGTON, May 18, 1920.

SIR: With reference to your note of January 24, 1920, notifying this Government of the intention of the Royal Hellenic Government to arrest the operation of the Treaty of Commerce and Navigation of 1837 on January 26, 1921, I have the honor to enquire whether the Royal Hellenic Government would agree to enter immediately into negotiations with this Government looking towards the signing and ratification at an early date of a brief Treaty, similar to the draft transmitted herewith in triplicate,^a amending Article XVII of the Treaty of 1837 so as to extend the provisions of that Treaty until three months after one of the High Contracting Parties has declared its intention to renounce it.

^a Not printed; see final text of the agreement, p. 716.

I have the honor to add that, should the Royal Hellenic Government prefer not to enter into so formal an agreement to run only to the time when that Government is in a position to negotiate new Treaties, possibly a brief period, this Government would be equally appreciative of an early assurance from the Royal Hellenic Government that after January 26, 1921, this Government will continue to enjoy the advantages of a Treaty-Government until a new Treaty has been concluded; until the present Commercial Treaties of the other Allied and Associated nations with Greece have ceased to be operative; or until three months after notice has been given of the intention of the Royal Hellenic Government to withhold some part of the reciprocal advantages traditionally enjoyed by Greece and the United States in their trade and intercourse.

Accept [etc.]

BAINBRIDGE COLBY

611.6831/28

The Greek Chargé (Tsamados) to the Secretary of State

[Translation]

No. 1761

WASHINGTON, October 8, 1920.

MR. SECRETARY OF STATE: In reply to the note you were pleased to send to this Legation on May 18, 1920, relative to the conclusion of a treaty intended to amend Article XVII of the Treaty of Navigation and Commerce concluded between Greece and the United States of America of December 22, 1837, I have the honor to inform Your Excellency that the Royal Government is disposed to sign a convention in the form of a draft submitted in the aforesaid note of the Department of State.

In so informing me, the Royal Government forwarded to me the full powers needed to proceed without delay with the conclusion of that treaty.

Be pleased [etc.]

M. TSAMADOS

Unperfected Treaty No. Y-5

*Agreement between the United States of America and Greece,
Modifying Treaty of Commerce and Navigation of December 22,
1837, Signed at Washington October 18, 1920*¹

The Government of the United States of America and the Royal Hellenic Government, being desirous of modifying the provisions of Article XVII of the Treaty of Commerce and Navigation concluded between them on December 22, 1837, in such a manner as to avoid a discontinuance of the treaty relations traditionally exist-

¹ In English and French; French text not printed.

ent between the two Governments, have authorized the undersigned, to wit:

Mr. Norman H. Davis, Acting Secretary of State of the United States, and, Mr. M. Tsamados, Officer of the Royal Order of the Saviour, Commander of the Royal Order of George I, Chargé d'Affaires of Greece at Washington, to conclude the following Agreement:

ARTICLE I

It is agreed between the high contracting parties that Article XVII of the Treaty of Commerce and Navigation, concluded between the Government of the United States and the Royal Hellenic Government on December 22, 1837, shall be substituted by the following:

"The present treaty shall continue in force until January 26, 1921, and thereafter until a new Treaty shall have been concluded to take its place or until three months after one of the High Contracting Parties shall have announced by a formal notification to the other its intention to terminate it."

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America by and with the consent of the Senate thereof, and by His Majesty the King of the Hellenes, and shall become effective upon the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate at Washington in the English and French languages this eighteenth day of October, one thousand nine hundred and twenty.

NORMAN H. DAVIS
M. TSAMADOS

GUATEMALA

FALL OF THE ESTRADA CABRERA GOVERNMENT¹

Revolutionary Agitation against President Estrada Cabrera—Efforts by the United States to Allay Factional Discord—Request from Both Factions for Mediation by the Diplomatic Corps—Proclamation of Reforms Issued by the President on the Advice of the United States Government—Outbreak of Factional Hostilities, and Resignation of the President—Inauguration of the Herrera Government and Its Recognition by the United States

814.00/328: Telegram

The Chargé in Guatemala (Scotten) to the Secretary of State

GUATEMALA, January 3, 1920—4 p.m.

[Received January 5—2:38 a.m.]

1. My December 31, 8 p.m.²

Pamphlets distributed January 1 causing wide spread comment. Legation reliably informed by several sources, all of which agree, nomenclature new party purely cloak to cover true aim, namely downfall President Cabrera. Signers of pamphlet for the most part men of means and standing and many are known to be clericals and sympathizers with Bishop Piñol. All of Legation's informants believe that these men will not be easily intimidated and that distribution of pamphlets marks beginning of the end of present regime. Impression general that new party has at least approval, if not support of Government of the United States. One of Legation's most reliable informants states that result of Legation's negotiations with President as regards sale of enemy's properties will have considerable effect upon standing and strength of new party.

Legation informed by indubitable source that Antonio C. Rivera, director of military academy at the time of attempted assassination of the President 1908, arrested and held in jail several hours last night on the charge of being the leader of new party but finally released.

SCOTTEN

¹ For previous correspondence on the political affairs of Guatemala, see *Foreign Relations*, 1919, vol. II, pp. 263 ff.

² *Ibid.*, p. 269.

814.00/329 : Telegram

The Chargé in Guatemala (Scotten) to the Secretary of State

GUATEMALA, January [6], 1920—10 a.m.

[Received January 7—12:15 a.m.]

2. My 1, January 3, 5 [4] p.m. Two leaders of new party called at Legation today and informed me that police and soldiers had broken into their printing establishment last night and carried to headquarters of secret police all the presses, etc., for which reason they are unable to publish their newspaper. These men further gave me the names of two Army officers whom they claim have been instructed by the President to leave tomorrow for a place near Mexican frontier in order to start a commotion [which?] the President will blame on new party in order to have excuse to place leaders in jail. Both men swear that new party will have absolutely no part in this commotion and that their party's only wish is to carry on their political propaganda in strict compliance with laws. British Chargé d'Affaires confirms Legation's report in above mentioned telegram that signers of pamphlet referred to are practically all men of highest type in Guatemala.

SCOTTEN

814.00/338 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, January 24, 1920—6 p.m.

[Received January 26—12:09 p.m.]

19. Five of the most prominent men Unionist party including Doctor Bianchi leader arrested this afternoon. Situation tense.

McMILLIN

814.00/339 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, January 26, 1920—10 a.m.

[Received January 28—12:01 a.m.]

20. Legation's 19 January 24. In spite of arrests (above mentioned telegram) Unionista Party held meeting yesterday with large attendance and no interference. Movement spread over very rapidly and in case of harsh measures by Government belief is general that trouble will ensue. . . .

In case of riots numerous American interests here will be endangered and therefore I earnestly recommend Navy Department

be requested to send a war vessel immediately to some near port outside of Guatemalan waters, such as Belize, from which place Marines could reach this city in about 24 hours. British Chargé d'Affaires has made similar recommendations to his Government.

McMILLIN

814.00/841 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, February 2, 1920—noon.

[Received February 4—9:46 a.m.]

24. In an interview with President Cabrera this morning latter characterized present opposition to him as a continuation or out-growth of the German influences in Guatemala during the war. He asserts one of the men now in jail was involved in an effort to conceal German activities during the war. He stated that he intends day after tomorrow to give the opposition a blow which will crush it once for all.

Generally believed here that most Germans oppose new party. Some political prisoners have been notified they are to be tried for treason and sedition by military court. This may be blow to which President referred.

McMILLIN

814.00/842 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, February 3, 1920—noon.

[Received 5:40 p.m.]

25. Legation informed from a reliable source that within a few days the President of the Republic will cause a disturbance of some sort near his residence and use this as excuse to terrorize city and kill leaders of the opposition party. The Department's attention is called to President's statement, my 24, February 2, noon.

Situation is very grave especially in view of reports that part of the Army may turn against the Government. I urgently recommend that Department take steps to protect American life and property in accordance with suggestions embodied in Legation's 20, January 26, 10 a.m.

McMILLIN

814.00/842 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, February 6, 1920—11 a.m.

8. Your 25, February 3, noon. You are directed to inform President Estrada Cabrera that the summary trial and execution of

political leaders would create a most unfortunate impression in this country. Impress upon him the necessity of according to all persons, accused of conspiracy, the safeguards of a fair and public trial by the regularly constituted Tribunals of the country.

Keep Department fully informed of further developments in situation. Department is assured by Navy Department that three destroyers will arrive at Puerto Cortez tomorrow. Commander of squadron has been instructed to get into telegraphic communication with you immediately upon arrival at Puerto Cortez.

LANSING

814.00/344 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, February 7, 1920—3 p.m.

[Received February 8—4:40 p.m.]

26. British and French representatives here and many Americans and other nationals conferred with me about disturbed conditions, numerous arrests, and danger of bloodshed.

Realizing their fears not without foundation I obtained interview with the President February 5th laying before him the situation deferentially but directly. His reception and manner were cordial but he had not before realized the magnitude, apparently, of the opposition to his regime; situation somewhat improved. Department's 8³ potent for good.

McMILLIN

814.00/345 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, February 9, 1920—5 p.m.

[Received February 10—6:45 p.m.]

27. Department's 8, February 6, 11 a.m. I have carried out instructions above mentioned telegram. Following is President's reply.

"You can be absolutely sure that the trials referred to will be followed and resolved in entire accord with the laws of the country; neither in the initiation of said trials nor in anything of their procedure will there be any failure to follow the strictly legal course determined by the laws themselves."

McMILLIN

³ *Supra.*

814.00/349 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, February 26, 1920—5 p.m.

12. Your February 21, 6 P.M.⁴ While the situation in Guatemala requires the closest attention the Department desires to hold itself completely aloof from any action that might be construed as indicating that this Government was taking any position in what is for the present a purely domestic matter. In dealing with the present situation you will be guided by the attitude of this Government as expressed above.

POLK

814.00/352 : Telegram

*The Minister in Guatemala (McMillin) to the Acting Secretary of
State*

GUATEMALA, March 1, 1920—5 p.m.

[Received March 3—8:45 p.m.]

31. The regular session of Guatemalan Congress opened yesterday without extraordinary incident. The President's message was read dealing with public questions and routine matters in usual manner. He commented briefly on organization Unionist Party declaring that while it claimed as its purpose the union of Central American republics the object was to combat policies of his Government as evidenced by fact that most of the original signers were recognized enemies of himself. On February 29 large number Liberal Party brought by Government from Departments and paraded streets. Unionist meeting was held at same time without clash or disorder. I cannot, however, too strongly impress upon the Department the increasing gravity of the situation.

McMILLIN

814.00/356a : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, March 9, 1920—6 p.m.

18. Department has received information that the following persons and many others, leading citizens of Guatemala, have been

⁴ Not printed.

imprisoned for participation in organization of new political party in Guatemala:

[Here follows list of 23 names.]

You are requested to see President Estrada without delay, informing him that this Government assumes he fully realizes the unfortunate impression which would be created throughout the American Continent by any action designed to suppress normal political activities in any American republic.

For your information. Your dispatches indicate that members of the Unionist Party have called at the Legation from time to time to protest against the imprisonment of their leaders. In the course of any conversation that you may have with them you may take occasion to mention incidently to them the deep interest of the United States in the orderly progress of Guatemala and that any attempts on their part to overthrow by violence existing constitutional order would create a most unfavorable impression in the United States.

POLK

814.00/357: Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 12, 1920—10 a.m.

[Received March 13—7:59 a.m.]

38. Legation's 37, March 11, 11 a.m.⁵ Situation very critical in view of the events which happened yesterday afternoon. Following is true version as witnessed by Secretary of Legation and almost entire diplomatic corps:

Unionists formed in huge parade of about 10,000 men besides thousands of women and children and marched to the Legislative Assembly at 3 p.m. in order to present a note of congratulation to latter for having passed bill authorizing Executive power to take steps to realize the union of Central America. Manifestation very orderly and no incident occurred until parade arrived at military academy where Assembly being held. Arrived there parade halted and committee of three and leading men endeavored to enter to present note to Assembly. They were denied admission by principal gate and told by police they would have to enter by rear gate. They did so without protest and after presenting message endeavored to leave building and rejoin parade. Latter then commenced to return in order and quiet to the city, passing by gate of military academy *enroute*. Shortly after parade started to

⁵ Not printed.

return about 200 men, led by Colonel Anguiano, who is Chief of Secret Police, and composed of most of the dangerous element which surrounds President of the Republic as well as secret agents and soldiers in civilian clothes, most of whom were armed with revolvers or knives and commenced to provoke Unionists by shouting insulting remarks and advancing into the middle of the road, hindering parade. Latter continued however in absolute quiet and order until some member of body mentioned in last sentence, reported by several witnesses to be Colonel Anguiano, drew a revolver and fired two shots in the air. Secret agents, etc., thereupon ran a short way along the road and many shots were heard. There was a general tumult and people mentioned in last sentence ran back into military academy shouting for arms. Order given to distribute arms until diplomats who were present, seeing extreme danger of situation begged chiefs not to permit the crowd to leave the building again with arms. Result of disturbance at least two killed and several wounded. Disorder absolutely provoked by the authorities under apparent prearranged plan to cause trouble and give Government excuse to suppress new party. After quiet restored I had prearranged interview with the President to carry out Departments instructions Number 18, March 9, 6 p.m. After this British Chargé d'Affaires was admitted and gave him true version of the affair which was given quite contrary to version which he gave me.

McMILLIN

814.00/358 : Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 12, 1920—10 p.m.

[Received March 14—6:18 a.m.]

39. That the situation has lately become almost hopeless of peaceful solution was illustrated yesterday during a call made on me by four Unionist leaders. They have been notified some time ago that if their object or that of their party was to overthrow the Government by unconstitutional or illegal means the Legation could have no relations with them. When pressed for information on that point in this interview they declared their purpose to turn President Estrada out before the expiration of his term and that they had not proceeded by impeachment because not sure of Congress. They said that hate was so bitter throughout the whole country against the President that any attempt at mediation on the part of the leaders of the Unionist Party or neutrals would be construed by bulk of party as friendship for President and would not be tolerated.

Committee informed me that in a week or two a huge demonstration would be made in the capital by representatives from all parts of country at what time resignations of President would be asked for and if he refused he might be impeached by Assembly. This conversation occurred about six hours before Unionist parade to Assembly—reported in my 38 March 12th. I replied that as they admitted that their program was revolutionary my former notice was now effective and Legation could have no further political communication those seeking to overthrow legally constituted authority by force.

McMILLIN

514.00/362 : Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 16, 1920.

[Received March 17—4:15 a.m.]

43. Legation's 42. March 15th.⁶ As a result of shooting which occurred March 11, reported my telegram 38 March 12, both Unionist Party and President earnestly requested diplomatic corps and urging my cooperation act as mediators in an effort to find some solution to present situation and avoid a revolution. Diplomatic corps replied that while it could not act officially would do all possible otherwise to prevent bloodshed. Meeting of the diplomatic corps held and I was requested in their name to see what could be done. I held a conference with members of Unionists committee who presented me with list of demands on which they said they would make a settlement. This list was furnished the President through Minister for Foreign Affairs and President appointed a committee of three men to represent him. Conference this committee held yesterday as well as with committee of Unionists Party making it clear to each that members of diplomatic corps were not acting in any sense officially but at urgent requests of Government and Unionists solely in a final effort to avoid bloodshed. Both sides expressed their sincere thanks for anything that might be accomplished along these lines. While no final answer was given by Government committee yesterday to all demands of Unionists, Government concedes the most essential demands. But Unionists showed such distrust and suspicion of sincerity other side as to make me most pessimistic about possibility of peaceful solution. Furthermore remaining demands of Unionists are of such a trivial nature as to cause me to believe that they feel the time has passed for any settlement of their difficulties in an amicable way. This is

⁶ Not printed.

erroneous. If they act reasonably they can get a just settlement. It looks today as if they are only accepting the good offices of the diplomatic corps out of courtesy to the latter rather than because they wish any actual settlement outside of the removal of President. The attitude of the representatives of the Labor Party at this conference especially confirms my belief. A meeting of the committee of the Unionist Party and the entire diplomatic corps will be held tonight at which time a definite expression will be sought as to the real purposes of the Unionists Party in the matter. I neither have nor will take any action which might compromise the Government of the United States in this matter.

McMILLIN

814.00/361 : Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 16, 1920—8 p.m.

[Received March 17—10:34 a.m.]

44. President of the Republic has just called me to his residence and stated that he believes that a word from the Government of the United States could settle the present situation without bloodshed. He then stated that having confidence in the good will and honesty of the Government of the United States, he placed the entire situation and the fate of the country in our hands and would agree to abide by any decision which we make.

One of the chief difficulties up to the present in arriving at a settlement of the question through mediation has been the absence of any guarantee which the Unionist Party would trust that whatever agreement which might be entered into would be [lived up to]. If the Department could give assurance that President Estrada would be held to his undertakings an agreement might be reached. Revolution inevitable without immediate solution. Instructions urgently requested.

McMILLIN

814.00/363 : Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 17, 1920—10 a.m.

[Received March 19—12:10 a.m.]

45. Efforts for settlement of troubles continued yesterday till late at night. Unionist committee came before diplomatic corps. Gov-

ernment committee will do so to-night. One unfavorable sign is that two Labor members of Unionist committee who cooperated by attending meetings before absented themselves and seem more anxious for revolution than settlement. President released certain political prisoners which will have temporary good effect on the part of dangerous situation reported in my 44, March 16 [which] is not materially changed.

McMILLIN

\$14.00/357 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, March 17, 1920—5 p.m.

20. Your 38, March 12, 10 a.m.

Department convinced that policy adopted by President Estrada Cabrera of using secret agents in a manner tending to provoke disturbances is a menace to the peace and order of Guatemala. You are instructed to see President Estrada Cabrera and orally to impress upon him the deep and warm interest of the United States in the peace and prosperity of Guatemala and the earnest desire of this Government for the fullest measure of success of his administration. The Department feels, however, that this success is in danger of being marred unless—1st, President Estrada Cabrera recognizes all rights guaranteed by the Constitution; 2d, that no attempt be made to repress the normal political activities of the people; 3d, that no further arrests be made for political reasons; 4th, that in no circumstances and under no conditions should prisoners be subjected to torture or even flogging; 5th, that the policy pursued by President Estrada during the recent demonstration which resulted in disturbances and loss of life has aroused grave concern in this country.

You are cautioned to be particularly careful that the contents of this telegram be held strictly confidential as between yourself and President Estrada Cabrera, and that every possible precaution be taken that there be no leakage from the Legation.

POLK

\$14.00/362 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, March 18, 1920—5 p.m.

21. Your 43, March 16. Your 44 March 16, 8 p.m.

The two objects which the Department desires to obtain are prevention of a revolution and the faithful meeting of the just

demands of the Unionists on the part of Estrada Cabrera. Unless the situation has so changed as to make the following action impossible, you are instructed to seek an immediate interview with Estrada Cabrera and suggest the following plan:

You will first inform the President of the appreciation of this Government of his confidence in the Government of the United States and of his desire to place the situation in our hands and to abide by any decision which we make. You will then suggest to him that he issue a proclamation granting what you and he may consider the just demands of the Unionists. This proclamation should include the first four points of Department's March 17, 5 p.m., and should also state that all purely political prisoners will be immediately released. You should leave it to the option of the President whether or not he should state in this proclamation that the proclamation was made by the advice or with the approval of the Government of the United States. You will inform the President that immediately after or coincident with his proclamation the Legation will publish a statement more or less as follows:

"The steady policy of the Government of the United States is to encourage Constitutional Government and free elections in Central America. Having the greatest interest, therefore, in the constitutional progress of Guatemala, the Government of the United States has learned with great pleasure of the proclamation of President Estrada Cabrera regarding constitutional guarantees, and has confidence, in view of the statements just made to this Government by President Estrada Cabrera, that he will faithfully carry out the reforms proclaimed.

The Government of the United States is opposed to revolutionary measures, and firmly believes that in view of President Estrada Cabrera's proclamation there is no excuse for the starting of a revolutionary movement in Guatemala, and that, therefore, in the eyes of the civilized world, the gravest responsibility would rest with any man or group of men who ventured to start such a movement. The Government of the United States particularly desires to see peaceful, constitutional progress in Guatemala and would regard with horror any actions which should cause a needless and inexcusable revolution to be commenced in that country."

Should President Estrada Cabrera consent to make such a proclamation as has been suggested, and approve the Legation's statement as outlined above, you will immediately, after having issued the above statement, summon to the Legation the heads of the Unionists movement and inform them that the United States Government cannot countenance a revolutionary movement. You will also inform them that President Estrada Cabrera has declared his firm intention to the Government of the United States that the actions outlined in his proclamation will be carried out. In your

interview with Estrada Cabrera obtain from him the declaration mentioned in the last sentence.

POLK

814.00/362 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, March 19, 1920—4 p.m.

22. Department's March 18, 5 p.m.

Department suggested that first four points of Department's March 17, 5 p.m. be included in President Estrada Cabrera's proclamation. Department has no objection to the proclamation containing, after the third point, an explanation to the effect that crimes punishable by the laws of the country are not to be considered "political reasons".

The Department does not insist on the inclusion of the fourth point in the proclamation but will be content with a verbal assurance from President Estrada Cabrera that prisoners will not be subjected to torture or flogging.

These conclusions have been come to after a conference with Doctor Toledo Herrarte,⁷ and the Minister of Guatemala, who will telegraph their government accordingly.

POLK

814.00/366 : Telegram

*The Minister in Guatemala (McMillin) to the Acting Secretary
of State*

GUATEMALA, March 21, 1920—10 a.m.

[Received March 22—4:04 a.m.]

46. On receipt of Department's 20, March 17, 10 a.m. [5 p.m.] and 21 March 18, 5 p.m. I arranged interview with the President to carry out above stated instructions. When I made them known to him he requested me to express to our Government his gratitude for its confidence and action and his willingness to make the proclamation embracing the three points indicated in the Department's 221 [22], March 19, 4 p.m.

When the situation became desperate here both sides urged the diplomatic corps to try to find a solution as heretofore reported. Protesting our want of authority or inclination to interfere in the nations affairs, we agreed finally to extend our unofficial good offices

⁷ Chief of the Guatemalan Special Mission to the United States.

in getting representatives selected by both sides together to settle the matter themselves. The Unionists Party presented fourteen propositions, the granting of which they said would satisfy them. After several conferences part of these were dropped by mutual consent as unconstitutional or nonessential. Therefore when Department 21, March 18, 5 p.m. was received, representatives of the Government and Unionists had agreed concerning all [propositions] Unionist submitted except two of small importance. The demands agreed to embrace substantially all four points contained in Department's 20, March 17, 10 a.m. [5 p.m.]

Exercising the discretion allowed me in the above referred to instructions I told President Estrada he should include in his proclamation not only the three points mentioned above but also the four or five to which his committee had assented in the above mentioned conferences. He insisted on not complying, saying that it would diminish his prestige, but that he would carry them out. I reiterated my demand telling him that it was best for him and his country. He did not however agree to it. We are to confer together again tomorrow and in the absence of instructions to the contrary I will insist that he include the points I say or issue no statement from the Legation as contemplated in the Department's instructions. His people and the Legation have lost all confidence in his promises and it would be the worst conceivable policy to allow him to exclude from his proclamation these points. He will have trouble enough whatever is done.

I deem it proper to report that I hear well authenticated reports that the Unionists desire to impeach him if they find it practicable. If they can control Congress, which is being sounded, it is not certain that a proclamation by him would stop this action.

McMILLIN

814.00/366 : Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, March 22, 1920—5 p.m.

24. Your March 21, 10 a.m. For your information.

Guatemalan Minister called this morning before the receipt of your telegram and asked if he might cable his Government that Department required no more than the President's proclamation as stated in Department's March 18, 5 p.m., and March 19, 4 p.m. His request was acceded to and he cabled his Government accordingly, but he has since been informed of the substance of this cable and has presumably telegraphed his Government again.

You have not informed Department of substance of four or five points you desire included in the proclamation and you are instructed to cable them immediately. Meanwhile the Department must rely entirely upon your discretion and authorizes you, if you believe it necessary to preserve peace in Guatemala, to require the inclusion of the four or five points you mention which the Department understands had already been agreed to in substance by representatives of the Government and of the Unionists. The Department desires to impress upon you, however, that before insisting upon the inclusion of any additional points in the proclamation, you must satisfy yourself that these points contain nothing which will undermine the respect for authority of the constituted government of Guatemala.

POLK

814.00/367 : Telegram

The Minister in Guatemala (McMillin) to the Acting Secretary of State

GUATEMALA, March 22, 1920—8 p.m.

[Received March 24—12:15 a.m.]

47. Department's 21, March 18, 5 p.m. Legation 46 March 21, 10 a.m.

Since my 44, March 16th, situation has so changed that I deem it proper to report conditions before concluding arrangements contemplated in Department's 21, March 16 [18], 5 p.m., reported in the Legation's 46 March 21, 10 a.m. Originally President proposed to place the entire situation in our hands and abide by our Government's action. He had also agreed there should be no new provocations to violence pending efforts of neutral diplomats at the instance of both sides to find solution.

Notwithstanding these undertakings and Department's 20, January [March] 17, 10 a.m. [5 p.m.] and especially items numbered 1, 2 and 3 thereof, Legation learns to-day that yesterday six political arrests were made in this city and many more arrests throughout the Republic, including six females. No time has elapsed to verify these reports. But I doubt not that [they] are true. Reported also that Unionists meetings interfered.

In my interview with President reported in the Legation's 46, March 21, 10 a.m., I suggested wisdom of releasing certain political prisoners. It has not been done up to the present.

The President did not agree to include in his proclamation certain things I advised him to include. However, as we are to have another meeting he will possibly do so because he finds he cannot have proposed settlement on other terms and not because he wants to.

He has ruled autocratically so long and is surrounded by such evil influences that it is most difficult for him to change and reform the Government. He is so distrusted and condemned by large majority of his people that they will lend him no sympathetic help in changing. They want him out of this office and nothing less. No assurances he gives will satisfy them and our Government would probably have to force him to keep those he makes. It looks like only force can keep him in office. His Army is large but how true I cannot say. Under these circumstances I respectfully ask for further instructions.

I earnestly renew my request made in Legation's 42 March 15, 2 p.m.^a that war vessels with marines be sent immediately to Puerto Barrios and San José.

McMILLIN

814.00/368: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, March 24, 1920—2 p.m.

[Received 10:40 p.m.]

48. Department's 24, March 22, 5 p.m. I consider Department's three points ample, if faithfully administered, to secure the rights contended for by Unionists. However, as representatives of Government and Unionists, brought together as explained in the Legation's despatch number 28 March 18, 1920^a through the diplomatic corps, had agreed to them, I felt that their omission would produce bad effects on frenzied populace. I also felt that their inclusion would make him more ready to enforce them. In no other sense is their inclusion essential. President said yesterday that they would be included in an outline of policy which his Ministry would announce contemporaneously with his proclamation which is ready for issuance. The following are the terms agreed to.

1. A formal and strict promise on the part of the Government to respect and to cause to be respected the laws of the country.

2. All political prisoners shall be immediately released and no further arrests shall be made for political reasons.

3. The return to their homes of all those imprisoned on the pretext of military service, such as (a list of names follows) at the cost of the Government and with absolute safety of their persons.

4. Absolute respect for the judiciary and legislative powers, in order that they may enjoy complete independence. The sessions of the Assembly to be held in an independent place.

5. Liberty and security of communication, embracing in this the right to proceed with the foundation of political clubs in the Depart-

^a Not printed.

ments in conformity with article 25 of the Constitution. The inviolability of correspondence and the absolute liberty of the telegraph.

McMILLIN

814.00/367: Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, March 26, 1920—5 p.m.

26. Your March 22, 8 p.m.

Arrangements have been made with Navy Department by which U.S.S. *Tacoma* will be stationed for the present at San José, Guatemala, and the U.S.S. *Niagara* at Puerto Barrios. Guatemalan Minister here states he is informed all political prisoners have been released, also that President Cabrera desires to accept Department's plan as outlined. Department desires further recommendations from you in regard to the situation. Until further information is received from you, the Department is unable to give further instructions.

COLBY

814.00/370: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, March 26, 1920—7 p.m.

[Received March 28—2:40 a.m.]

50. In an interview with the President yesterday, I asked to see the proclamation he proposed making to his people. This was to guard against misunderstandings in the future. He said that it was in the hands of the printer but he would furnish me a proof which he did late this afternoon. It details the clauses and guarantees outlined in the Department's 20, March 17, 10 a.m. [5 p.m.], and 21, March 18, 5 p.m.

It was indirect and on some suggested points incoherent, and failed utterly to meet the required conditions or comply with his agreements. It would in no sense justify the statement I am instructed to publish outlined in the Department's 21, March 18, 5 p.m. I am to meet him tomorrow and will decline to carry out my instructions, or to make any agreements with him unless he makes his proclamation conform to his promises above mentioned.

Today committee designated by the President and by the Unionists to try to make settlement of their differences finished their work. They reached an agreement on all points. They are to meet tomorrow to sign the papers. These are the negotiations which have continued two weeks inaugurated by diplomatic corps as reported

in my despatch number 28, March 18.¹⁰ These conclusions embraced all the matters of prime importance and should settle everything, but probably will not. The President is so distrusted and discredited by his people that it is doubtful either will long struggle to live up to the settlement.

McMILLIN

814.00/372: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, March 29, 1920—3 p.m.

[Received March 30—2:25 p.m.]

52. Department's 26, March 26th, 5 p.m. The negotiations reported in the Legation's 46, March 21st, 10 a.m., between the representatives of Government and Unionist were concluded and signed March 27th. Five of these were reported in the Legation's 48, March 25th [24], 2 p.m. The remaining four are:

6. In the lawsuits or criminal trials which are initiated against the persons who are considered guilty of one or two events which took place on March 11th in this capital in front of the military academy, the Executive will be watchful to see that prompt, complete justice is administered, in whatever way he is empowered and whenever the circumstances demand.

7. With the end in view of giving occupation, justly paid, to honorable workmen, the public works which the Government have already commenced will be carried out and new works will be begun within the limit of the public purse, there being named (as has already been commenced) commissions of honorable persons who shall have control of the payments and inspect the works. The commission so named shall be amplified with two members of the Unionist Party, proposed by the latter. The members of this committee shall be properly paid.

8. Access shall be given to a representation from each of the political parties which so desires to the official deliberations which have for their object the discussion of everything which relates to the union of Central America.

9. Elections of deputies and municipal authorities shall be held in the districts which are now vacant, and orders will be given to the authorities who supervise to insure absolute guarantees to the electors, as is provided by law.

This agreement carried out would secure the rights the Unionist[s] seek but unfortunately both parties regard it as a parley rather than a settlement.

In my conference with President after receipt of Department's 26 March 26th, 5 p.m. I told him the proclamation he sent me utterly failed to include the guarantees required for action by me; that

¹⁰ Not printed.

two of the Department[']s suggestions were not mentioned and the terms not clearly enough made and I had reported its insufficiency to my Government and would not act without further instructions. He asked me to inform Department he was willing to include Department's points which he had received verbally, some time before, in his proclamation.

With reference to the last paragraph of the Department's 26, March 26, 5 p.m., the situation is slightly more quiet and orderly. The two meetings of committees and release of some prisoners have had that effect. The determination of the Unionist[s] and laborers to oust the President however is as fixed as ever. They do not conceal this. They are considering the appointment of a strong committee to personally place the situation before him asking him to resign with security of life and property, or they will impeach him if, as heretofore reported, Congress is favorable. They are sounding the Army and claim considerable part of it. All else failing they will revolt if conditions are sufficiently promising. A vast majority uncompromisingly oppose President and his continuance in office. His long rule has been very autocratic. What authority he lacked under the law each succeeding Congress before adjournment gave by resolution or act. What are undoubtedly well founded complaints of the people are: that under this system the Executive and the officials have interfered with the judiciary, making arrests without due process of the law and imprisoning without trial; that *jefes politicos*, paid inadequately, have habitually levied unlawful tribute upon the people; that the press has been muzzled and lawful political meetings prevented; that in addition to lawful export taxes irresponsible Government favorites have been allowed to sell export licenses, collecting illegal fees therefor; that through solvency certificate requirements the Executive has prevented people from selling and mortgaging their property; that citizens are harassed and punished unnecessarily under pretense of levies for military duty. These wrongs have produced such feeling as I never have seen elsewhere against an Executive. See my telegram number 50, March 26th, 7 p.m.

Such are the nature and environments of the Executive and the exasperation and determination of the people that I believe force would be required to uphold his Government and enable him to finish his term. Unaided as he is by an Army he will be compelled to surrender his Government. The Minister of War who has been a trusted friend of the President resigned last night and has been granted asylum by the British Legation. The President and his enemies, however, having agreed upon a settlement embracing all

the guarantees of freedom of the citizens outlined Department's 20, March 17th, 10 a.m. [5 p.m.] I strongly recommend that the matter be left with them for the present. Under existing conditions I think it injudicious and probably useless to conclude the arrangements contemplated Department's 21, March 18, 5 p.m.

McMILLIN

814.00/373 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, March 30, 1920—10 a.m.

[Received 8:35 p.m.]

54. Supplementing my 52, March 29, 3 p.m. General Letona, Acting Minister of War, who is the President's private secretary as well as deputy in the National Assembly, tendered his resignation on March 28, and yesterday was granted asylum at the British Legation. Reason he gives for this action is bad treatment accorded him recently by the President and threats made by latter against his life. He has been one of the President's most trusted friends for many years. He claims that President is in a precarious mental condition, neither eating nor sleeping for the last few days and that he shows distinct signs of insanity.

I am convinced that there is no other peaceful remedy to this situation than the speedy resignation of the President, but I fear that he will not do so unless such a step were suggested to him by the Department.

McMILLIN

814.00/370 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, March 31, 1920—6 p.m.

28. Your 50, March 26, 7 p.m.

Department deems it very necessary that President's proclamation shall contain first three points outlined in Department's March 17, 10 a.m. [5 p.m.], in full.

Cable Department:

1. Full text of proclamation which you are urging President shall issue in order to make Legation's statement possible.
2. Points objected to by President in your draft of proclamation.
3. Full text outline of policy to be announced by ministry as stated in your March 24, 2 p.m.

COLBY

814.00/372 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 1, 1920—5 p.m.

29. Your March 30, 10 a.m.

It is not felt that this Department should entertain the idea of suggesting resignation of the President.

Your March 29, 3 p.m.

Provided Estrada Cabrera issues a proclamation which contains textually first three points of Department's March 17, 5 p.m. and other points desired by you as outlined in Department's March 22, 5 p.m. you are instructed to issue statement as outlined in Department's March 18, 5 p.m.

It is belief of Department that if Estrada Cabrera issues desired proclamation and gives proof of intention to live up to its terms that it would be to the benefit of Guatemala to permit him peacefully to conclude his term of office.

In order that Department may have full information regarding situation cable your opinion of the character and ability of the two designados.

COLBY

814.00/378 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 1, 1920—5 p.m.

[Received April 2—7:40 p.m.]

56. Legations 54 March 30, 10 a.m. Unionist leaders today informed the Spanish Minister who is dean of the diplomatic corps that since signing of compact on March 27th reported my telegram number 52, March 29, 3 p.m. many infractions on the part of the President had been reported to them from all parts of the country and that they were unable any longer to control the situation and prevent an armed revolution unless the President should resign at once and leave the country. They state that should he refuse to resign he will be impeached at the next meeting of the Assembly on April 5th and that as they now have a large majority in the Chamber of Deputies the result is certain. They requested that the diplomatic corps present this situation to the President and endeavor to convince him that the wisest policy both for his personal welfare and for the welfare of his country would be for him to resign immediately and leave the country with complete guarantees for his life and property. The dean informed them that such a request could not be entertained or complied with on the part of the

diplomatic corps. Afterwards the Unionist leaders decided that their wisest course would be to send a commission to confer directly with the President and they announced their intention of seeking an interview with the President this evening or tomorrow. Should he refuse to resign I doubt whether he will allow himself to be impeached without resistance by force.

McMILLIN

814.00/379 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 5, 1920—4 p.m.

[Received April 6—2:40 p.m.]

61. Leaders of Unionist Party sent today to the dean of the diplomatic corps for transmission to the members of the corps a communication, the substance of which is as follows:

In view of the official declaration made by the Minister of the United States in the name of his Government and published by him in Guatemala, we come to manifest to Your Excellency in order that you may transmit it to your Government and to the other representatives of the diplomatic corps accredited to this Government, that in view of the conduct followed by the President of Guatemala during his long continuance in power, it would not be strange if he himself would counterfeit a revolution in order to bring upon our party the disapprobation of the Government of the United States and obtain an opportunity to satisfy his desire for vengeance.

Once more we come to state in a categorical manner that our intentions have not been, are not, and will not be contrary to the maintenance of the peace. Our labor, as our activity up to the present time has fully demonstrated, has been entirely evolutionary and within the law, in spite of the bloody provocations of the ruler and his agents, [omission?] the presence of the honorable diplomatic corps.

The President of the Republic, who fears that grave accusations will be presented against him before the National Assembly, will undoubtedly try before next Thursday to disturb the public order and counterfeit a revolution. He has given orders that, until further advice the classes of the schools in this capital shall be suspended and he is distributing arms in the neighborhood of the various barracks. We repeat that a man who was insolent enough to publish by means of his paid and semiofficial press that events of the 11th of March was due to the Reunionist Party is capable of everything.

In view of the gravity of the above mentioned events we are complying with our duty in denying any responsibility on our part, and in making such a formal declaration we avail ourselves of the opportunity to present to Your Excellency the assurances of our highest consideration.

McMILLIN

814.00/381 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 6, 1920—11 a.m.

[Received April 7—6:17 a.m.]

60. Immediately after receipt of Departments 29, April 1, 5 p.m. I carried out instructions contained in it and Department's 21 March 18, 5 p.m. The President issued a proclamation yesterday morning embracing among other things all the points suggested in the Department's 29, April 1, 5 p.m. The same afternoon I published verbatim the declaration embraced in instructions. Today I summoned Unionist leaders to the Legation and informed them the United States cannot countenance a revolutionary movement and that President Estrada had declared his firm intention to the Government of the United States that the actions outlined in his proclamation will be carried out. It became unnecessary to further insist on the inclusion in his proclamation of points additional to those required by the Department because they had been agreed to by Unionist[s] and President and published pending negotiations concerning his proclamation. In response to my above mentioned statement to Unionist[s] they declared that in all their actions they had kept within the law and would continue to do so and they showed disappointment at the action of our Government.

The session of the Assembly scheduled for today has been postponed until next Thursday.

Yesterday morning soldiers entered building in a suburb of this city where Unionist meeting was being held and arrested 27 men besides seizing furniture and archives. About the same time the Minister for Foreign Affairs came with President's proclamation. I reported the arrests and complained at the bad faith it exhibited. He said that they should be released. I reminded him that the President had given assurance that normal political activities should not be interfered with and he would be expected to carry it out.

McMILLIN

814.00/378 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 7, 1920—6 p.m.

30. Your April 1, 5 p.m.

Apart from action outlined in Department's April 1, 5 p.m., you are requested to be particularly careful to refrain from any action which involves interference in the domestic affairs of Guatemala without first obtaining specific instructions from the Department.

With reference to your repeated requests for the sending of marines to Guatemalan ports, the Department desires to remind you that nothing short of the most serious menace to the lives of foreigners resident in Guatemala City would lead the Department to consider such a step. The mere fact of existence of disorder at the capital or other portions of the Republic, would not justify so extreme a measure. In view of your repeated telegrams on this subject, the Department deems it important to emphasize these fundamental principles of policy.

COLBY

814.00/389: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 8, 1920—noon.

[Received April 9—12:30 a.m.]

63. The Assembly met this morning 9 o'clock. It had been reported that the session had been called off and the President did not attend. Legation informed that President of the Assembly replied to commission which waited on him that his non attendance was on account of overtaking [*sic*] presidential order. The Assembly having full quorum impeachment charges were made against President Estrada. Subsequently the charge that he is insane was made and is now being considered in secret session. Four physicians have been appointed to report on the question and it is believed they will make their report today. It is not probable they will personally visit the President to make an examination. The session is not held at armory as it has been since the earthquakes but at Congressional Hall. Several thousand citizens are around the hall. Soldiers are also near the building but no violence yet reported. Aguirre, leader of Unionists, says that telephone operatives report that when President was telephoned that impeachment proceedings were initiated he ordered troops from barracks to dissolve the Assembly but troops were turned back some blocks away from Assembly hall. Impeachment proceedings will probably be concluded before adjournment today. The excitement great and situation most grave. Many believe that President will declare martial law. Two officers from United States steamship *Tacoma* here and Legation has made arrangements to bring troops from our ships if necessary.

McMILLIN

814.00/388 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, [April 8, 1920?].

[Received April 9—12:30 a.m.]

64. Department's 21 [29], April 1, 5 p.m. The two designados of Guatemala are, first, General Mariano Serrano Muñoz and, second, General Duarte.

McMILLIN

814.00/386 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 8, 1920—5 p.m.

[Received April 9—12:30 a.m.]

65. As predicted in Legation's 64 [63], April 6 [8], noon., Assembly declared President Estrada Cabrera insane and elected Don Carlos Herrera President. New Ministry and impeachment proceedings follow.

McMILLIN

814.00/390 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 8, 1920—9 [8] p.m.

[Received April 9—3:45 p.m.]

67. Legation's April 8, 5 p.m. Following are the translations of decrees enacted today in Legislative Assembly in regular session, also new Cabinet as formed by Carlos Herrera.

Decree number 1022. The National Legislative Assembly of the Republic of Guatemala, considering:

That the documents before it duly establish the mental unsoundness of Doctor Manuel Estrada Cabrera, President, for which reason it is impossible for him to continue in the Executive power, and with the end that he may attend to the reestablishing of his health;—in conformity with the articles 52, paragraph[s] 7 and 8, and 63 [68] of the constitutional law, for this reason, decrees:

Article 1. Doctor Manuel Estrada Cabrera is declared to be separated from the presidency of the Republic and is given permission to leave the territory of Central America.

Article 2. The supreme power shall be deposited in the person named by the Assembly for this purpose.

Article 3. While Dr. Manuel Estrada Cabrera remains in the country, he will be given the honors corresponding to the high charge which he has exercised; and he will be fully guaranteed by the people in the enjoyment of all his rights.

Given in the Hall of [Sessions of the] legislative power April 8, 1920.

Signed by forty deputies.

Decree number 1023. The National Assembly of the Republic, considering; that by decree of this date Doctor Manuel Estrada Cabrera has been separated from the Executive power; and that the person who must succeed him in that high post must be named; in conformity with the disposition of Article 52, paragraph 8 of the Constitution, decrees:

There is named as constitutional President of the Republic, in substitution for Doctor Manuel Estrada Cabrera, Senor C. Carlos Herrera.

Given in the Palace of the Legislative Assembly in Guatemala April 8, 1920.

Signed by the President José Beteta, etc.

Carlos Herrera, constitutional President of the Republic through appointment by the Assembly, considering, that on this date he was designated by the Legislative Assembly to exercise the Executive power *ad interim* in conformity with the Constitution; and having accepted and taken possession of that high position, has the duty of organizing his Cabinet in conformity with the approval of dispositions of article 71 of the Constitution; for this reason, decrees:

Article 1. The following Ministers are named: Minister of Gobernación and Minister of Justice, Adalberto A. Saravia; Minister for Foreign Affairs, Luis P. Aguirre; Minister of Finance, Adrián Vidaurre; Minister of Public Instruction, Manuel Arroyo; Minister of War, José A. Beteta; Minister of Fomento, Alberto Mencos.

Article 2. The appointees will today take possession of their posts before the President; he giving thanks to [the] persons for their services who accept these charges.

This to be published and telegraphed to the people and authorities of the Republic.

Given in Guatemala April 8, 1920.

McMILLIN

814.00/388: Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 9, 1920—5 p.m.

34. Your April 8, noon, your 64, and your April 8, 5 p.m. Department not as yet in full possession of facts, and desires information as to constitutionality of action taken by Assembly in declaring Estrada Cabrera insane, and electing Herrera President instead of electing first designado. Cable full information, specifying paragraphs of Constitution. Meanwhile you are cautioned to proceed with great discretion and in case the new government is not organized in accordance with the procedure prescribed by the Constitution of Guatemala, to take no action regarding its recognition without specific instructions from Department.

The Department received with surprise a statement from the Guatemalan Minister in Washington that Herrera had been given asylum by the Legation, and cannot credit this information as you have not reported any such incident. Cable Department as to accuracy of statement together with full and detailed report on situation including Herrera's record, and your opinion of his ability and feelings toward this country.

COLBY

814.00/894: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 10, 1920—7 a.m.

[Received April 11—1:18 a.m.]

Fighting between adherents of Estrada Cabrera and representatives Guatemala commenced yesterday morning has continued practically without cessation ever since. Unionists have control of the city but Cabrera's men still hold the site important strongholds of La Palma, Matamoros, Aceitano, San José and Aurora. Unionists have no artillery but Estrada Cabrera has much. Some bombardment of the city has occurred. Great fear felt. Severe bombardment may commence any moment in which case all Legations will be in danger. [Impossible] to estimate the forces up to present but one American named Simon Cohen has been killed. Communication established with *Tacoma* for short time yesterday and Legation guard now on way. Feared that entrance into city may be difficult. Situation very black, probability that large forces of Unionists will begin to arrive today from provinces. Pitched battle expected in view of great supplies of artillery and ammunition in possession of Estrada Cabrera and large number of men in forces of Unionists. Loss of life will be very large and battle may continue some time. Parley held yesterday between representatives of Government and prominent Unionists with view to establishment of neutral zone in center of city which would protect Legations and noncombatants in general and armistice signed which will last until 3 p.m. to-day but as there is constant firing at present notwithstanding result of parley very doubtful if such a zone would be of service even if agreed to. Communication between Legation and La Palma broken and cable communication between Legation and ports broken. Permission received from Estrada Cabrera for entrance of Legation guard. Legation just informed by messenger that troops are concentrating along railroad track and entrance to city and they have not received above mentioned instructions. Military attaché opinion is that a division of troops would be necessary to capture present position held by Cabrera's troops.

Guard of fifty men from United States ship *Niagara* with rapid firing guns just arrived at Legation from Puerto Barrios but larger guard from San José has not arrived yet. Please furnish copies of this message to the Director of Military and Naval Intelligence.

McMILLIN

814.00/404 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 11, 1920—2 p.m.

[Received April 13—12:15 a.m.]

66. There was desultory firing over us yesterday. What seemed from the sounds of the guns to be general engagement continued for five hours around fort in suburbs one mile from Legation. Many shells passed over and considerable number burst in the city. Brazilian Legation struck four times by shells. When this occurred and general bombardment of city seemed probable, diplomatic corps sent a vigorous protest to Estrada Cabrera against it. He replied he was willing to suspend firing if Unionists [agree] to arrange neutral zone. Unionists agree to conditions to suspend, firing ceased at dark; heavy firing resumed early to-day.

Family of Carlos Herrera whom [garbled group] named President was taken to British Legation for asylum as peril seemed imminent they were admitted but asylum rulings strictly enforced including 55 [garbled groups] natives and refugees 150 persons occupy Legation. Efforts now being made to get a neutral zone in city or to remove non combatants with some prospects of success. There are not sufficient developments to predict outcome. Copies for the military and naval intelligence.

McMILLIN

814.00/394 : Telegram

The Acting Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 11, 1920—2 p.m.

35. Your April 10, 7 A. M. With the object of avoiding further bloodshed you are authorized to offer your good offices to Estrada Cabrera and to the leaders of the Unionists and to propose to them that an armistice be declared and that a conference be held on an American warship or at the Legation.

If such a conference is held you should preside and do all in your power to promote an arrangement which shall preclude further fighting.

POLK

814.00/408 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 12, 1920—7 a.m.

[Received April 14—12:05 a.m.]

68. Herrera is not in Legation and has not had asylum here. With reference to constitutional authorities reluctance to support legality of election of Herrera instead designating first designado, see Legation's 66 [697].

A letter from attorneys of Unionist[s] volunteering to furnish proof of legality was [received]. Briefs are not conclusive. The lunacy proceedings would not in my opinion stand the tests. Strictest propriety has been observed and Legation has no dealings with new Government. Its President, Carlos Herrera is highly respected and has never taken much interest in politics and is wealthiest citizen of Guatemala. He is apparently favorably inclined towards the United States. His sons were educated there and are American citizens. The meeting reported in the Legation's 67, April 12 [8], 8 a.m. [p.m.], has about reached conclusion of aligning [parties] on terms given in above cable. They finish tomorrow.

McMILLIN

814.00/405 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 12, 1920—8 a.m.

[Received April 13—1:55 p.m.]

69. Legation's number 65. Guatemalan Minister for Foreign Affairs and Unionist representatives met in conference at this Legation last night, diplomatic corps present, by request of parties, hostilities suspended pending negotiation. Minister for Foreign Affairs proposed settlement which as slightly amended is as follows:

1st. That the Acts of Congress of Thursday the 8th instant are declared null and void.

2d. That as soon as such Acts of Congress are declared null and void His Excellency the President of the Republic will assemble the Legislative Assembly and the latter shall accept his resignation of office to accomplish which he will deposit it in the hands of the dean of the diplomatic corps in order that said gentleman may present it when the condition provided for in the previous article has been complied with.

3d. It is a precise condition for the pact to be enforced that in conformity with the Constitution [First] Designado General Mari-

ano Serrano Muñoz will be assigned to the power and take charge of his post.

4th. The Cabinet which was [*is?*] given the necessary qualifications by Serrano Muñoz shall be elected by the party which Messrs. Zelaya, Salas and Valladares represent.

5th. It is agreed that the Government which is constituted shall furnish full guarantee without any restriction to President Estrada Cabrera, to the persons of his Army and of his friends and relatives, both as regards their persons as well as their property.

6th. As a note of the good faith to fulfill this agreement the members of the diplomatic corps will sign it.

7th. This agreement shall be submitted to a referendum of both parties who are obliged to declare whether it is ratified or not tomorrow at 5 p.m. I think ratification probable and that such settlement would be legal and fortunate. To avoid possible complications I will sign it only [*as?*] witness without [*unless?*] contrary instructions. See section 6. At the request of the military attaché please furnish copies of this to directors of military and naval operations.

McMILLIN

814.00/394 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 12, 1920—1 p.m.

36. Department's April 11, 2 p.m.

You will impress upon Estrada Cabrera and upon the leaders of the Unionists the importance of an immediate armistice and a conference in order that the lives of foreigners in Guatemala City may not be further endangered.

You will intimate orally to the Unionists that whatever may be the result of the conference they should proceed in strict accordance with the provisions of the Constitution of Guatemala in order to ensure recognition of any future government which may be formed.

COLBY

814.00/410 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 14, 1920—4 p.m.

[Received April 15—4:20 p.m.]

70. Your April 11, 2 p.m. received by mail today. I immediately tendered good offices to both parties. An armistice renewed from

day to day and constantly broken has been the vehicle under which parties have been striving for settlement. This was by request of both parties carried on presence of diplomatic corps that they might be witness to outcome. As reported by me prospects of success were bright. However yesterday after long sitting no agreement was reached. Today the Unionists who have retained a number of strongholds during nominal armistice and strengthened their positions, demurred to surrender to President as prisoners with guarantees of life and property. Three days ago he secured safe conduct out of the country the latter being in the hands of Estrada Cabrera for consideration until 5 o'clock. Before adjournment I again urged parties as instructed to extend armistice, whether this can be procured or not is not yet certain. Impossible to cable yesterday. Your cables up to number 36 received. Please repeat to Director Military and Naval Intelligence.

McMILLIN

814.00/423 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 14, 1920—10 p.m.

[Received April 17—3 p.m.]

71. At 8 o'clock tonight Minister of Foreign Affairs Cabrerass Government and representatives of new Government agreed on following terms of surrender of President Cabrera:

"Enrique Haeussler, Canuto Castillo, and Manuel Echeverría y Vidaurre, representatives of the Government of Estrada Cabrera on the one hand and Marcial Manilla García Salas, José Ernesto Zelaya and Manuel Valladares, representatives of the Government of Carlos Herrera, and Saturnino González, José Azmitia, Francisco Rodríguez and J. Demetrio Avila, representing the Unionist Party, have agreed to the following:

1. That Dr. Estrada Cabrera capitulate absolutely and deliver himself to the Government of Carlos Herrera which will take him and place him in the Military Academy.

2. That Estrada Cabrera shall be taken from his residence in La Palma to said place accompanied by the honorable members of the diplomatic corps for his personal safety and on the petition of the Minister of Foreign Affairs. Besides there will go six members of the Cabinet of Señor Herrera, six representatives of the Unionist Party and six chiefs of the Government of Señor Herrera. Señor Cabrera may take with him his military aids.

3. The Government of Señor Herrera and the Unionist Party guarantee the life of Señor Cabrera, of his family and of the persons of his suite according to a list drawn by the Government of Señor Herrera. All those persons will be placed with Señor Cabrera in the Military Academy.

4. These guarantees will be signed before the honorable diplomatic corps.

5. The Government of Herrera with respect to the effects of Señor Cabrera will give them full legal guarantees.

6. This agreement will be signed both by Estrada Cabrera and by Carlos Herrera.

7. The [delegates,] Salas, Zelaya and Valladares agree as well to the capitulation.^[37]

Various propositions were considered for the taking asylum in a Legation or leaving country. To all these Unionists replied that the only way they could save him from mob violence and death in present inflamed state of public was to keep him temporarily a prisoner guarded by the Army. [Fearing] death by mob between home and Military Academy, Cabrera insisted that American Minister accompany him. This resulted in entire diplomatic corps agreeing to do so. The transfer will occur tomorrow morning. Please repeat to Directors of Military and Naval Intelligence.

McMILLIN

814.00/420: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 15, 1920—4 p.m.

[Received April 16—9:48 p.m.]

72. Legation's 71, April 14, 10 p.m. In accordance with terms agreed on yesterday Estrada Cabrera surrendered himself and his Army and turned over his Government to the Provisional Government of Guatemala at 10 o'clock today. These events took place at his home office at La Palma. Most of his Army was located there. The [President's] trip [to] the Military [Academy] was made without notable incident or any manifestation of resentment or evil over him. Before leaving him the Provisional Government officials renewed their assurances and pledges for his safety. The disposition to be made of him not yet determined. It is probable that when excitement subsides so that it can be carried out safely, he will go or be sent from the country. Some excesses have occurred. The murder of a colonel and ten other prisoners just reported. Saloons closed and circulars issued urging soldiers to return to their homes. Our sailors, both officers and men have acted splendidly. Unionist leaders making every effort to prevent lawlessness. Please furnish copies to Directors of Military and Naval Intelligence.

McMILLIN

814.00/425 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 16, 1920—5 p.m.

[Received April 17—11:25 p.m.]

74. Obeying instructions in the Department's 34 April 9, 5 p.m. Legation is taking no action regarding recognition new Government pending instructions to that effect.

The Minister for Foreign Affairs of the new Government sent to Legation today the following:

"I have the honor to communicate to Your Excellency that in conformity with the dispositions of the National Assembly, and in view of the resignation of Estrada Cabrera as President of the Republic, Señor Carlos Herrera has taken possession as First Magistrate of the Nation, and has organized his Cabinet in the following manner (here follow same names as reported in Legation's 67, April 8, 8 p.m.).

I am pleased to add that the entire nation, without distinction of opinions, has recognized the new Government, and that the capitulation of ex-President Estrada Cabrera and the reduction of his forces which were sustaining him have caused the public order to be completely reestablished.

The Government of President Herrera bears the hope that, for the realization of the high ends by which the new administration is inspired, it may count on the sympathy and efficacious aid of the nations who are friendly to Guatemala, and especially on the aid and friendship of the distinguished diplomatic representatives.

In informing Your Excellency of the above, with the request that you please transmit it to your Government, it gives me pleasure to assure you for my part, that it will be very pleasing for me to cultivate with Your Excellency the most cordial relations, both official and personal, in the post which the President of the Republic has seen fit to confer upon me.

I am, etc., signed by the Minister for Foreign Affairs."

New Government has succeeded in reestablishing order today in an admirable manner and has already disarmed large majority of the people. It is undoubtedly popular with the people of Guatemala. I await the Department's instructions.

McMILLIN

814.00/410 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 16, 1920—6 p.m.

39. Your April 14, 4 [10?] p.m.

You are authorized, if so requested, and his life is endangered, to give Estrada Cabrera an escort to the coast, and to permit his leaving Guatemala on a United States ship if no immediate passage on a merchant ship is to be had.

Department has received unofficial information that Cabrera is a prisoner. You are directed to use your good offices, if necessary, to the end that Cabrera's life may not be endangered, and that he may be permitted to leave Guatemala.

COLBY

814.00/433

The Guatemalan Minister (Méndez) to the Secretary of State

[Translation ¹²]

WASHINGTON, April 17, 1920.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that I have just received from the Minister of Foreign Relations of Guatemala a telegram reading as follows:

"Guatemala, April 17, 1920.

"Minister of Guatemala, Washington:

By a decree of the Assembly and by virtue of the resignation of Señor Estrada Cabrera, Don Carlos Herrera has assumed the Presidency of the Republic and appointed his Cabinet as follows: Gobernación and Justice, Licentiate Adalberto Saravia; Public Instruction, Doctor Manuel Arroyo; Fomento, Licentiate Alberto Mencos; Finance, Licentiate Adrián Vidaurre; War, Licentiate José Beteta; and Foreign Relations, the undersigned. The whole country supports the new Government. Please take note and inform the Government to which you are accredited. Luis P. Aguirre."

The new order of things was established in full conformity with the Constitution of the Republic and won from the very first the unanimous approval of all the people. In compliance with instructions from my Government I have the honor to make the foregoing communication to Your Excellency. I cherish the firm hope that the American Government, the true and sincere friend of Guatemala, if it finds my request to be proper, will, in view of the information which I have presented to the Division of Latin-American Affairs, and such other as may be requested, be pleased to recognize the new Government of my country.

I avail myself [etc.]

JOAQUÍN MÉNDEZ

814.00/420: Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, April 17, 1920—6 p.m.

40. Your April 15, 4 p.m.

Department gratified that every effort is being made to prevent lawlessness.

¹² File translation revised.

You may use your good offices with the Unionist leaders to the end that they may use moderation in their victory and that their sudden accession to power shall not be made use of to accomplish a revengeful policy. You may suggest that a general political amnesty be declared.

Cable full details as to how the "Provisional Government" is constituted.

Department has been unofficially informed that Herrera has taken over the Executive Power as first designado. Cable Department whether in your opinion this action has been in accord with the terms of the Guatemalan Constitution, citing articles of Constitution.

COLBY

814.00/431: Telegram

The Guatemalan Minister for Foreign Affairs (Aguirre) to the Secretary of State

[Translation]

GUATEMALA [undated].

[Received April 20, 1920.]

HONORABLE SECRETARY OF STATE: I have the honor to inform Your Excellency that, in accordance with a decree issued by the National Legislative Assembly and by virtue of the resignation tendered by Mr. Estrada Cabrera, the office of President has been assumed by Mr. Carlos Herrera, who in organizing his Government intrusted to me the portfolio of Foreign Affairs. The Government of President Herrera proposes first of all to reorganize the country and it cherishes the hope that it can count, for this important purpose, on the valuable support of the United States Government, which is an ardent advocate of free government and from which the Guatemalan people has received unforgettable demonstrations of sympathy and confraternity. While begging Your Excellency to kindly transmit to your Government the present communication, I take pleasure in presenting to you the assurances of my highest regards.

L. P. AGUIRRE

814.00/441: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 20, 1920—2 p.m.

[Received April 22—5:48 p.m.]

78. Department's 40 April 17, 6 p.m. The taking over of the Government as described in Legations' 67 April 8, 8 p.m. was

under Herrera's election by Congress. It seems that Unionists fearing the legality of this proceeding at a called session of Congress during the bombardment named Carlos Herrera as first designado and José Zelaya as second designado and under this proceeding the organization of Government as described in Legation's 74 April 16, 5 p.m. was made, after the surrender and resignation of Estrada Cabrera, devolving the Government on Herrera as first designado.

I desire to make further examination before giving the opinion as instructed by Department as to the constitutionality of the last organization. Have informally met Unionists leaders, relative to moderation and amnesty, and will continue efforts in that direction. Efforts to prevent lawlessness and to restore peace and quiet have been more and more successful than was anticipated. Conditions in city improving daily. Good reports from provinces.

McMILLIN

814.00/445 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 24, 1920—10 a.m.

[Received April 25—6:10 p.m.]

81. The following decree calling for Presidential elections has been published in the newspapers:

"Carlos Herrera, first designado, in the exercise of his functions as President of the Republic, in compliance with the last part of article 69 of the Constitution, in Council of Ministers, decrees:

Article 1. The people are convoked to the elections of the person who is to occupy the post of President of Republic.

Article 2. The elections will take place on the 23rd, 24th, 25th, 26th, 27th, 28th and 29th of next August and will be carried out under the provisions of the governmental decree numbered 304 dated December 20, 1887. Signed by all the members of the Cabinet and Herrera."

McMILLIN

814.00/447 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, April 24, 1920—5 p.m.

[Received April 26—12:19 a.m.]

82. Department's 39, April 16, 6 p.m. The time not yet opportune to make suggestions looking to Cabrera's leaving Guatemala. Provisional Government is holding him prisoner within the city pending full investigation of his presumably large estate, claiming much

of it belongs to Guatemala. They fear public wrath if he is permitted to leave. There are reports he will be tried for crime, but nothing positive. City and country rapidly approaching normal.

McMILLIN

814.00/479b : Telegram

The Acting Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, May 24, 1920—5 p.m.

50. Department desires immediate report on present situation, including your opinion as to whether life of Estrada Cabrera is in immediate danger.

POLK

814.00/480 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA [undated].

[Received May 27, 1920—8 p.m.]

93. Department's telegram 50 May 24, 5 p.m. I received positive assurance today that Estrada Cabrera's life will be spared though trial will continue. He has been removed three times since incarcerated and now in ordinary police station. Authorities would send him from the country but fear people.

Authorities say most of Cabrera's generals' lives will be spared but three or four are accused of such murders and assassinations as will probably entail death. They admit anxiety to extend clemency as far as public will tolerate.

Certain newspapers advocating vengeance have been admonished by Government to desist and one editor removed. In other respects new Government moving smoothly. No opponent to Herrera for President has been nominated.

McMILLIN

814.00/483 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, June 5, 1920—1 p.m.

[Received June 7—2:10 p.m.]

100. Your 51, June 3, 3 [5] p.m.¹⁴ Salvador, Honduras, and Costa Rica have recognized new Government and received its envoys.

¹⁴ Not printed.

The Under-Secretary in Ministry of Foreign Affairs new Government says Belgium, Spain, and Portugal have given notes of recognition to Guatemalan representatives in their respective Capitals.

He claims recognition by certain other Governments by reason of actions and incidents as follows: Colombia, Peru, Chile, and Argentina by virtue of cables by their respective Ministers to Foreign Minister here asking that life of Peruvian poet be spared; Italy by presentation of note to new Ministry by Italian Minister respectfully [*respecting*] proposed deportation of Italian subject charged with anarchistic propaganda; Mexico by despatch of cablegram from new Mexican Minister for Foreign Affairs to Foreign Minister here for proclamation mourning on assassination of Carranza; Great Britain by virtue of an informal visit to new President paid by new British envoy soon after arrival. The British Chargé d'Affaires just gone was instructed to await action of United States. The British Minister tells me his call entirely informal not intended as recognition. I think he would be entirely willing to recognize at once if we would. The papers have claimed some sort of recognition by France which is contradicted by French Chargé d'Affaires who informs me France also waits on United States.

There is no visible power to overthrow the new Government nor do I think its overthrow probable except that from time to time changes are very likely to occur in Ministry.

McMILLIN

814.00/486 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, June 19, 1920—noon.

[Received June 21—5:09 a.m.]

105. The French Chargé d'Affaires has just been informed that the French Government has decided to recognize the Herrera Government.

McMILLIN

814.00/487a : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, June 21, 1920—3 p.m.

55. President has decided to deal with Herrera Government as constitutional successor to Estrada Cabrera Government. You are, therefore, authorized to communicate this fact to the Minister for Foreign Affairs and be governed accordingly.

COLBY

814.00/490 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, June 26, 1920—noon.

[Received 11:45 p.m.]

106. Department's telegram June 21, 3 a.m. [*p.m.*] not received until June 24. I at once carried out instructions by extending recognition. It gave great satisfaction to the Guatemalan Government and was joyfully received both by natives and Americans residing here.

The affairs of the new Government improve steadily.

McMILLIN

814.00/508 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, August 29, 1920—noon.

[Received 11:28 p.m.]

125. Herrera overwhelmingly elected in a fair and quiet election. He received above 225,000 votes against 6,800 for Castillo and 5,300 for Fuentes. The official vote will not change these figures very materially.

McMILLIN

TREATMENT OF FORMERLY GERMAN-OWNED PROPERTY ¹⁵

814.6463Em7/24

The Secretary of State to the Minister in Guatemala (McMillin)

No. 390

WASHINGTON, June 11, 1920.

SIR: The Department is informed by Mr. Henry W. Catlin, a representative of the Electric Bond and Share Company, that this company has purchased four hundred ninety-five shares of the Empresa Electrica de Guatemala at a cost of \$495,000 cash, and that the company has encountered difficulties in connection with the transfer of the stock to it. He states that the former manager of the concern, Maximo Obst, a German, has refused to transfer the register of stock holders to the new owners.¹⁶

The Department understands that the sale of the stock of the Empresa Electrica de Guatemala represents a closed transaction. It

¹⁵ For previous correspondence relating to this subject, see *Foreign Relations*, 1919, vol. II, pp. 287 ff.

¹⁶ The 495 shares, out of a total of 600, had been taken over by the Guatemalan Alien Property Custodian and were sold by him, Mar. 31, 1920 (file no. 814.6463Em7/36).

seems, therefore, that there should exist no ground for a refusal on the part of the said Maximo Obst to transfer the register of stock holders of the old company.

You are instructed, therefore, discreetly and informally to make inquiry with reference to the following points:

I. What are the terms and conditions of the sale of shares of the Empresa Electrica and whether the cash has been paid.

II. Whether it is true that said Maximo Obst refuses to hand over the stock register, together with the reasons for such refusal.

III. What, if any, authority of the Guatemalan Government has jurisdiction to require the delivery of this document, and whether the Electric Bond and Share Company has taken recourse to its legal remedy, if any, and with what result to date.

You will please report to the Department, at your early convenience, obtainable information upon the points mentioned.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

814.6463Em7/24: Telegram

*The Acting Secretary of State to the Minister in Guatemala
(McMillin)*

WASHINGTON, July 3, 1920—3 p.m.

59. Department is informed that steps are being taken in Guatemala City by former German owners to bring about the annulment of the sale of the Empresa Electrica to the Electric Bond and Share Company. Mr. Innis, the Guatemalan representative of the Electric Bond and Share Company is now in New York and cannot reach Guatemala until about July 15th.

You are instructed to use every effort to induce the Government to stay any proceedings in this matter until the arrival of Mr. Innis.

ADEE

814.6463Em7/28

The Minister in Guatemala (McMillin) to the Secretary of State

No. 59

GUATEMALA, July 14, 1920.

[Received July 26.]

SIR: Referring to the Department's cable No. 59 of July 3rd, 3 P.M., I have the honor to report that:

On receipt of the Department's first instructions relative to the Empresa Electrica sold to the Electric Bond and Share Company of New York, I called on the Minister for Foreign Affairs

and carried out my instructions. I urged that there should be no step taken in the matter looking to the return of the properties to the original owners till after the return of Mr. Innis from New York. The Minister promised that nothing should be done in Mr. Innis absence. After this I took occasion to say that I did not see how the American purchasers could ever be deprived of their property as they had bought it and the Government of Guatemala had received the money, \$496,000.00 [*495,000.00?*]. He reminded me of the fact that the Government had discharged, as he promised me they would, the attorney for the "Intendencia" who recently decided with the Germans and against the American purchasers at a recent meeting of the stock holders.

I discussed other matters pertaining to German properties with him which will be found further reported on in my Despatch No. 60 of this date.¹⁷

I have [etc.]

BENTON McMILLIN

763.72113/1301a

The Secretary of State to the Minister in Guatemala (McMillin)

No. 399

WASHINGTON, July 31, 1920.

SIR: You are requested to seek an early opportunity to discuss with the proper officials of Guatemala the question of disposing of the German properties which are now in the hands of the Government. The Government of the United States will be glad to know what action is contemplated by the Government of Guatemala in regard to these properties.

The Government of the United States was deeply interested in the seizure of these properties by Guatemala during the war, because of its desire to assist Guatemala in any act which might weaken the common enemy of the two republics. At the present time, however, it is no longer felt that the retention of these properties by Guatemala, or their liquidation and sale, is necessary as a war measure. The United States will be pleased to see Guatemala take such action in regard to the properties as would best conserve her own economic interests.

In the event, however, that the Government of Guatemala intends to follow the course announced by the previous administration and to proceed with the sale of these properties, this Government would be glad to enlist the interest of American investors with a view to their acquiring a part or all of the properties in question.

¹⁷ Not printed.

It should be understood, however, that no steps which may be taken with a view to the final disposition of enemy property can in any way affect the validity of the sale of properties, such as the Empresa Electrica de Guatemala, formerly enemy owned, which may already have been acquired by American citizens.

It is felt that it would be undesirable to continue to insist upon the sale of the former German properties because of the improbability, in view of the prevailing conditions in the investment market in the United States, that American interests would be able to pay for the properties a price in any way commensurate with their real value. The Department feels, therefore, that it would be difficult to justify a continuance of the policy which was necessary and proper during the war but which is no longer essential at the present time.

I am [etc.]

BAINBRIDGE COLBY

763.72113/1329: Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, October 4, 1920—5 p.m.

[Received October 5—1:35 p.m.]

138. Your instructions number 399 of July 31. The program concerning German properties this Government inclines to carry out is as follows:

First, confirm rights of Americans in electric properties purchased by them.

Second, protect Apparicios¹³ and all other Americans owning interests in German properties.

Third, indemnify Guatemala for guarding bridge and other expenses and damages by appropriating the funds accumulated from operating German properties since their seizure amounting to about two million dollars.

Four, return said properties except electric light and Apparicio holdings to Germans minus accumulations indicated.

This program known to the Government and this Legation only and will be changed if not acceptable to the United States. In view of Department's instruction number 399 of July 31, I shall not oppose this settlement without further instructions and it will be disclosed to the British and the French Legations and taken up with the Germans.

The Government prefers to conclude the affair before receiving the German Minister.

McMILLIN

¹³ Members of the Apparicio family, who were American citizens.

**DENUNCIATION BY GUATEMALA OF THE CONVENTION OF
AUGUST 20, 1910, CONCERNING THE PROTECTION OF TRADE
MARKS**

(See volume I, pages 218 ff.)

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 311 ff.)

HAITI

EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915, AND SUPPLEMENTARY AGREEMENTS¹

Reports from the Minister in Haiti and the Financial Adviser Charging Failure of the Haitian Government to Observe the Terms of the Agreement of August 24, 1918—Complaints by the Haitian Government Alleging Arbitrary Interference by the American Treaty Officials—Suspension of the Salaries of the Haitian President and High Officers of State by Order of the American Minister—Insistence by the United States upon Cooperation in Legislation—Withdrawal of the Order Suspending Salaries

711.38/138

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

No. 376

PORT AU PRINCE, *December 11, 1919.*

[Received January 2, 1920.]

SIR: Referring to this Legation's cable of August 21—4 p.m.,² and in compliance with the Department's cable instruction of August 30—2 p.m.,³ I have the honor to forward herewith copy and translation of the agreement of August 24, 1918,⁴ between the Government of the United States and the Government of Haiti regarding the submission by the Haitian Government to the Representative of the United States to Haiti of all proposed legislation bearing upon any of the objects of the Treaty for the information of the Government of the United States and if necessary for discussion between the two Governments prior to the enactment thereof, and to report that having seen the promulgation in the official Gazette *Le Moniteur* of certain laws which had been passed without their having been previously communicated to this Legation, contrary to the above mentioned agreement, I at once notified the Minister of Foreign Affairs in each case that under the circumstances these laws would not be recognized as law by my Government. I also advised the Treaty officials concerned in order that they might act accordingly.

These Laws are:

Law on Pensions

“ “ Trade Marks

“ “ Mines, Mining Concessions

“ “ Preparation of Primary School Teachers

“ “ Preparatory Manual Training

“ “ Duty on Automobiles, Trucks, etc.

“ “ Railroads and Tramways.

¹ Continued from *Foreign Relations*, 1919, vol. II, pp. 303-340.

² *Ibid.*, p. 336.

³ See *ibid.*, p. 309, footnote 6.

⁴ *Ibid.*, p. 309; also quoted in full, *post*, pp. 778 and 784.

This last was communicated to the Legation, discussed at a meeting of the Treaty Officials and referred to the Government Engineer under the Treaty for his consideration and report; but the Law was passed and promulgated before the Legation could receive the Engineer's report, and advise the Foreign Office as to its attitude.

I enclose herewith copies of the correspondence on the subject with the Minister of Foreign Affairs and the Treaty Officials concerned.*

My contention has always been that the agreement above mentioned covers all proposed Legislation, and having had considerable difficulty with Mr. Borno, regarding its interpretation, I took advantage of the first visit of Mr. Benoit, Mr. Borno's successor as Minister of Foreign Affairs, to impress upon him the necessity in order to attain the aims of the Treaty of a close cooperation between us, and to that end it was paramount that he see that all proposed legislation be communicated to the Legation before its being submitted to the Legislative Body; that if any project of law so communicated did not bear upon any of the objects of the Treaty it would immediately be returned to him with a statement that the Legation saw no objection to it. If the project was not contrary to the terms of the Treaty but had some objectionable features we would endeavor to come to an understanding for their removal.

Mr. Benoit assured me of his readiness to cooperate in this manner, but his subsequent acts in this and other matters were so contrary to this understanding that I was compelled on several occasions to call upon the President and bring to his attention the obstructive methods of Mr. Benoit which finally resulted in his removal on October 17, 1919. I am happy to state that the present Minister of Foreign Affairs, Mr. Barau, has shown every disposition to fully cooperate with the Legation.

Until their publication in *Le Moniteur* I had no prior knowledge of the proposed passage and promulgation of these laws for the reason that the proceedings of the Legislative Body (Conseil d'État) are published months subsequent to the sittings of that body.

It is understood with the Haitian Government that the above mentioned laws will be taken up at the next session of the Council of State together with two other laws on Public Works and Carrying of Fire Arms and Traffic in Arms and Ammunition, concerning which the Foreign Office and this Legation were in accord, but which were modified by the Council of State and so passed, with the assent of the interested Minister. On my learning of this by chance, I at once called upon the President and after relating the facts demanded that these laws be not promulgated but be returned to the Conseil d'État to be passed as originally agreed upon. The President after a con-

* Not printed.

ference in which the interested Ministers of Public Works and Interior participated, decided that these two laws would not be promulgated, which would render them ineffective, and as stated above that they would be taken up at the next session of the Legislative Body.

In order to avoid future difficulties regarding laws which had been passed without being communicated to this Legation the President agreed with me that on the receipt of any law passed by the Legislative Body and submitted to him for his action, he would communicate it to the Legation before promulgation, and he has acted accordingly.

The President has given me the most formal assurances that next year there would be no recurrence of these difficulties regarding the passage of laws and that he himself would take charge of them. To this end the President after conference with his Cabinet and the Members of the Council of State announced to me that the following *modus operandi* would be followed:

1. The Government to be in accord with the Conseil d'État in its advisory capacity upon any project of law before its submission to the Legation.

2. If the Legation has no objection to the proposed law it will be sent to the Conseil d'État to be passed as agreed.

3. Should the Legation find objections, negotiations towards an understanding will be entered into with the Government, and the agreement reached communicated to the Conseil d'État in its advisory capacity, for their accord.

The Government, the Conseil d'État and the Legation, being in accord, the project of law will then be sent to the Conseil d'État in its legislative capacity to be passed as agreed.

4. To guard against any possible errors, the law after its passage by the Legislative Body and its submission to the President for his action, will be sent by him in communication to the Representative of the United States, before promulgation.

I believe that the above procedure is of a nature to avoid a recurrence of any of the difficulties with which we have had to contend in the past, in these matters.

I have [etc.]

A. BAILLY-BLANCHARD

838.044/5

The Financial Adviser to the Government of Haiti (McIlhenny) to the Chief of the Division of Latin American Affairs, Department of State (Rowe)

PORT AU PRINCE, July 21, 1920.

[Received September 21.]

MY DEAR DOCTOR ROWE: I have not heretofore reported to you as to conditions in Haiti for the simple reason that up to ten days ago

matters seemed to be in a process of favorable settlement. Immediately upon my coming to Haiti I called upon the President and reported to him the ill success of my mission to the United States, and laid before him the several matters which were decided while I was still in Washington were necessary to have established either by law or by *arrêté*. I found the President in apparently an entirely responsive mood. I explained the land law to him and he said that he was fully in accord with the purposes of the law, but raised a technical objection to one of the clauses which had no sound basis and was raised solely because of the control granted by the law to the Financial Adviser. However, he promised to draft a modification of the clause which would meet with his views and transmit it to me, and said that as soon as we were in accord on that one clause he would place the matter before the Council of State and it would be passed as submitted. I then took up with him the question of the issuance of an *arrêté* placing in operation section 15 of the contract of the retraits.* He told me that he had given the matter careful consideration and that he and his ministers were opposed to putting the clause into operation as they did not consider it justified by the present economic needs of the country. I explained to him that it was an obligation entered into by the government and was dependent for its wise administration upon the judgment of the Financial Adviser, and that it was hardly to be expected that the authority granted to the Financial Adviser would be used to the detriment of the country. I then went on to explain to him the purposes of the provision, and at the end of my explanation he said that he had never understood the matter before and that he was fully in accord with me, but he said the restriction upon the importation of non-Haitian monies and the maintenance of the gourde as the national money of Haiti should not be left to an *arrêté*, with only the short life of the remainder of the period of the retraits to run, but should be established by law, and asked me if I would be willing to draft a law for him for that purpose. I told him that I would if it were clearly understood that section 15 of the retraits would be incorporated in the proposed law without change or modification. He said that that was understood and agreed to. I asked him if he would then press the law through the Council of State, and he replied that while he entirely approved since my explanation of section 15 of the retraits he could not oblige himself to the remaining sections of the law until he had seen the law, but he stated again that he fully approved of the spirit and purpose of the proposed law as stated by me. I took up then with him the question of the modifications of the bank charter and the transfer of the National Bank

* For papers concerning the execution of the contract, see pp. 826 ff.

of Haiti to a new corporation to be called the National Bank of Haiti but incorporated under the Haitian laws.⁷ He stated in a very emphatic way that all of the delay since Mr. Farnham's⁸ absence was due to the dilatory tactics of the banks which in spite of repeated requests had failed to appear before the Haitian Government with the proper credentials, that the modifications of the charter would be approved without further question, and that the transfer of the bank would be consummated immediately upon the appearance before the government with the proper papers of the accredited representatives of the banks. I left him then with further assurance that the program that we had decided upon would go through with the least possible delay, and centered my efforts on seeing that the bank appeared properly before the government and on the drafting of the law concerning section 15 of the retraits. As soon as the law was drafted I presented it to the President and he accepted it and told me he would study it and let me know his views later. I [A] few days later I received a memorandum from the Minister of Finance, who said that the law had been handed to him by the Council of Ministers with the request that he give an opinion upon it for their consideration, that the opinion which he handed to me in the form of a *memoire* had been submitted to the Council of Ministers and had met with their approval, and he therefore handed it to me as the final judgment of the government. In this *memoire* he makes the final and definite statement that section 15 of the retraits is not approved, and also finally and definitely states that the government does not approve of the maintenance of the gourde as the legal tender money of the republic. A few days later I went to see him with the Receiver General of Customs and told him that while the putting into operation of section 15 of the contract of the retraits was not a question on which I felt I could enter into a debate with him as the Government of the United States was of the definite opinion that it must be put in operation, still I desired to explain to him the reasons for putting the section into operation and for maintaining the gourde as the legal tender money of the republic. At the end of my interview he asked me to place my statements in writing so that he might get them before the Council of Ministers, and this was done by me shortly after. A few days later the bank people having presented their credentials in proper form before the government he notified them that a committee of ministers composed of himself, Mr. Roy, the Minister of Public Works, and Mr. Bellegarde, the Minister of Public Instruction, had been appointed to consult with the bank as to the provisions of the laws authorizing the transfer

⁷ For papers relating to this subject, see pp. 816 ff.

⁸ R. L. Farnham, Vice President of the Banque Nationale de la République d'Haiti and of the National City Bank of New York.

of the bank and the modifications of the charter and requested them to meet the committee at his house. At the meeting certain modifications of language in the law of transfer were suggested by the committee of ministers to the bank people and accepted by the banks' representatives. When they came, however, in the law of transfer to the articles establishing the modifications of the charter, and reached article 10 which reads—

“After the expiration of the period set by the currency reform agreement for the retirement of the government paper money, the government will adopt such regulations affecting the importation of foreign currency as may appear necessary to safeguard the currency system of the Republic of Haiti. The Financial Advisor will consult with the Bank upon such measures as may be deemed necessary.”

they asked why this article had been placed in the law and were told by the bank people that it was a part of the modifications agreed to by the United States Government and the National City Bank at the conference in Washington, and for that reason had been included in the law. He thereupon told the bank people that his government would never agree to such an article and that before going any further in the matter of the transfer of the bank it must be eliminated from the papers. The bank people stated that they were without authority to eliminate it and would have to refer the matter to New York. Pending such reference they asked that the papers and all matters with the exception of that objectionable clause be passed upon to avoid unnecessary delay. They were notified by Mr. Féquière that he declined to accept or consider any papers as long as that clause was included in them and that the interview was thereby closed.

The next day the Minister of the United States went to call upon the President and was informed by the President that in his interview with me at the time I laid before him the different measures named above and requested that they be immediately acted upon, he had spoken in a private and unofficial capacity and that he now found his government was strongly opposed to the enactment of section 15 of the retraits and one of the modifications of the bank charter, and that he could not and would not approve it. Immediately upon returning from his interview with the President the Minister sent for me and informed me of the changed attitude of the government, and after giving the matter careful consideration I wrote to the Minister of Finance informing him that the further discussions of the budget, then three-fourths completed, would be suspended until such time as affairs of great importance to the welfare of the republic have been finally settled in accordance with the recommendations made by me to the Haitian Government. As I

expected, the government has taken violent exception to my action and in a formal letter has stated that I must assume all the responsibility for the delay in the enactment of the budget. On July 14th I went to see the President with American Minister and Colonel Russell,⁹ to explain to him the reasons which had governed me in taking the action and to again insist that the measures proposed by me and agreed to by him on my first coming to Haiti be put through without further delay. He stated that he could not possibly carry in his memory all of my statements and requested that I make my statement in writing, which I have done and it has been handed to him by the American Minister.

I am sorry to say that I find the government at this time definitely and strongly anti-American, and am of the opinion that the cabinet must be reorganized and the government made to understand that it must cooperate with the Occupation both in the administration of the government and in the enactment of such laws as are necessary to assure the welfare and prosperity of the country. I enclose you herewith a draft of the project of law which I prepared at the request of the President;¹⁰ the clauses relative to the prohibition of the hoarding of gourdes and the speculation in gourdes were lifted almost verbatim from a law proposed by Minister Féquière, which included a clause establishing the American dollar as the legal tender money for the country and which has been rejected both by the American Minister and myself. While I was still in Washington I was advised that Mr. Féquière, the Minister of Finance, had since his return from America gotten very fully under the influence of the Royal Bank of Canada. Since I have been here I have gotten closely in touch with the general situation and I am satisfied that the information I received while in Washington is true. The Royal Bank of Canada has taken as its legal adviser Louis Borno, who was Minister of Finance just prior to Féquière and who was removed from the cabinet because of his aggressively anti-American acts. There is no doubt that the Royal Bank of Canada proposed to buy the French stock in the Banque Nationale de la République d'Haiti if it could by any means prevent the purchase of that stock by the National City Bank. With that end in view Borno, acting on [with] Féquière and Bellegarde, the latter a close personal friend of Borno, has persuaded the government to use every imaginable method to delay and prevent the purchase of the stock by the National City Bank and the same influence is now seeking to take from the Bank the value of its concession, which gives it the sole right of emission of paper money, by declaring that the gourde is not the legal money

⁹ Col. John H. Russell, U.S.M.C., commanding the United States military forces in Haiti.

¹⁰ Not printed.

of the state and that the American dollar is. They ignore the fact that the gourde has been established by repeated laws as the legal tender money of the country from the time it gained its independence, and that in the contract of the retrait which was enacted into law the definitive bills of the bank have again been declared as the legal tender money of the republic, and they are determined to set aside the contract of the bank in two of its most important features. . . . You will recall that section 15 of the retrait, which reads as follows—

“To avoid the possibility of any currency crises during the period of the retirement of government paper money, as soon as [*and as long as*] such retirement shall be in process the government obligates itself to prohibit the importation and exportation of non-Haitian currency except such as may be necessary to meet the requirements of commerce in the judgment of the Financial Adviser.”

does not absolutely prohibit the importation or exportation of non-Haitian money, but does restrain the amount to be imported or exported to the commercial requirements of the country in the judgment of the Financial Adviser. Therefore the provision is not formulated in favor of or against any bank, but as a safeguard to the country. The contention of the Royal Bank of Canada to the British Chargé d’Affaires that it is to the detriment of that bank and places it and all other banks in Haiti absolutely under the control of the National Bank of Haiti is without any foundation in fact. The only other bank in Haiti, the American Foreign Banking Corporation, has no objection whatsoever to the enactment of the law, and believes absolutely that the gourde should be maintained as the legal tender money of Haiti and that the importation of foreign monies should be restricted to the actual commercial needs of the country.

I have [etc.]

JOHN A. McILHENNY

838.51/936

The Haitian Chargé (Blanchet) to the Secretary of State

[Translation]

WASHINGTON, July 30, 1920.

MR. SECRETARY OF STATE: In compliance with instructions received, I have the honor to transmit to Your Excellency the following communication from the Secretary of State of Foreign Relations of Haiti:

“The Government of Haiti is constrained to complain of the Financial Adviser, who took upon himself to prevent a vote on the budget, by declaring that he would put off any examination of the

budget until certain matters, without stating which, had been settled. Upon the Minister of Finance's inquiry, the Financial Adviser let it be known that the main matter was the prohibition of gold importation into Haiti. The Government refuses to take such a measure, which would constitute a danger and might cause grave injury, and the British Legation protested against such a law in two communications. The Financial Adviser is supported in his attitude by the American Minister and the Chief of the Occupation, who called at the National Palace to demand that the Government pass a law prohibiting the importation of American gold, and moreover to demand the repeal of the law construing Article 5 of the Constitution," the non-publication of a law relative to the Compensation Bureau, which was passed in compliance with the Treaty, and also to demand the dismissal of the Cabinet."

I beg [etc.]

A. BLANCHET

838.51/937

The Haitian Chargé (Blanchet) to the Secretary of State

[Translation]

WASHINGTON, July 30, 1920.

MR. SECRETARY OF STATE: In connection with and as a consequence of the grave incidents which I have just had the honor to bring to the notice of the Department of State, my Government directs me to make known to Your Excellency that the profound sense of its responsibilities toward the Haitien nation and its earnest desire to maintain and strengthen the good understanding and spirit of cooperation that are so necessary between itself and the representatives of the Government of the United States to insure a normal and useful execution of the Treaty of September 16, 1915, and a faithful observance of the Haitien Constitution, make it its plain duty urgently to ask Your Excellency kindly to institute an investigation of the facts brought to your notice.

My Government is convinced that a serious investigation immediately set on foot by special agents appointed for that purpose by Your Excellency, will not fail to bring out the fact, not only that the demands of the representatives of the Government of the United States in Haiti are severe and unwarranted, but also exclude every possible aid, and hamper the national Government.

My Government is also convinced that Your Excellency will not fail to appreciate how timely and urgent such investigation will be. It has, therefore, instructed me to express a firm hope that Your Excellency in the interest of the Government of the United States as well as the correctly understood interest of the Republic of Haiti, would see fit to order that measure of great justice.

I beg [etc.]

A. BLANCHET

²² For text of Haitian Constitution, see *Foreign Relations*, 1918, p. 487.

888.51/937

The Department of State to the Haitian Legation

AIDE-MÉMOIRE

The Third Assistant Secretary of State received on August 2 two notes dated July 30 which the Chargé d'Affaires of Haiti handed to him by instruction of his Government. In the two notes referred to Mr. Blanchet informed the Department of State that the Haitian Government felt constrained to complain of the action of the Financial Adviser to the Haitian Government in postponing consideration of the Budget, due chiefly, the Financial Adviser was reported to have stated, to the refusal of the Haitian Government to approve the modification of the bank charter which prohibits the importation of foreign currency into the Republic of Haiti. The Chargé d'Affaires of Haiti stated further that the Financial Adviser was supported in the position which he had taken by the American Minister and the Chief of the Occupation, who likewise were reported to have demanded the repeal of the law construing Article 5 of the Constitution, the non-publication of a law relating to the Compensation Bureau, and the dismissal of the Cabinet. The Chargé d'Affaires of Haiti likewise by instruction of his Government asked for the appointment of Agents by the Government of the United States to investigate the situation in question.

In conversation with the Chargé d'Affaires of Haiti, the Third Assistant Secretary of State stated that before coming to any decision regarding an investigation of the situation, the Department of State felt obliged to request full and frank information from the Government of Haiti as to the reasons for the change in the attitude of the Haitian Government regarding the modifications of the bank charter (of which the prohibition of the importation of foreign currency is one) which were approved by the Department of State, representatives of the Haitian Government and the National City Bank, as being in the best interests of the Haitian people. He asked whether the Haitian Government, if assured that such prohibition of the importation of foreign currency would not limit the investment of foreign capital in Haiti, would still oppose that particular modification of the bank charter, or whether the reported protests of the British Legation in Port au Prince against the approval of this modification would continue to influence the position taken by the Haitian Government. He added that the approval of the Department of State to the said modifications was given after careful consideration and with the consent of the Haitian Minister of Finance, in the belief that they formed

integral parts of an economic plan essential to the prosperity of the Haitian people, and that the position taken could not be changed regarding any one modification without prejudice to the efficacy of the plan as a whole. Reconsideration of the entire economic plan, of necessity, could not if at all be attempted without full and explicit information from the Haitian Government proving why the plan was, in its opinion, likely to be detrimental to the welfare of the Haitian Republic. The Third Assistant Secretary of State also asked full information as to why the Haitian Government now refused to put into effect Article 15 of the contract of the Retrait, why it refused to enact the Land Law approved by the Department of State as being essential to the wellbeing of the Haitian Republic, why it had offered a law making the ownership of real property by Haitians [*non-Haitians?*] practically impossible, and why it has passed other legislation, reported by the Financial Adviser of the Haitian Government as being unsound and improper, as rendering impossible a sound administration of Haitian affairs, and which was contrary to the spirit of the Treaty of September 26 [16], 1915.

The Third Assistant Secretary of State also added that advice received by the Department of State did not confirm the report that the Financial Adviser, the American Minister and the Chief of the Occupation had demanded the dismissal of the Cabinet. The Third Assistant Secretary of State also said that the Department of State, basing its opinion only upon the information now at its disposal, believed the Financial Adviser was acting for the best interests of the Haitian Republic.

In conclusion the Third Assistant Secretary of State stated that the Department of State was desirous of obtaining complete information regarding the situation referred to in the two notes received from the Haitian Chargé d'Affaires, but in connection with considering the advisability of making any special investigation it felt obliged to ask that the Haitian Government enlighten it fully regarding the matters enumerated above.

WASHINGTON, August 3, 1920.

838.516/147 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 5, 1920—noon.

[Received 5:25 p.m.]

46. My 42 July 28, 5 p.m.¹⁴ In view of continued failure Haitian Government to cooperate in accordance with the treaty provisions I

¹⁴ *Post*, p. 824.

have this day instructed the Financial Adviser to suspend payment salaries President, Secretaries of State and members Council of State until change of attitude and proper action by Haitian Government. This action taken in accord with Colonel Russell.

BLANCHARD

838.002/85 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 5, 1920—5 p.m.

58. The Haitian Legation by instruction of Haitian Government, has informed the Department that the Financial Adviser, Colonel Russell and yourself have insisted upon the resignation of the Cabinet. Please advise Department immediately of actions taken by you which have given rise to this report.

The Department considers it of utmost importance that you keep it fully and closely informed of all developments in the present situation.

COLBY

838.51/943 : Telegram

President Dartiguenave to President Wilson

[Translation ²⁵]

PORT AU PRINCE, August 6, 1920.

[Received August 10.]

The President of Haiti has the honor to inform Your Excellency of the following serious matter: According to an official letter from the Financial Adviser to the Secretary of State for Finance, the salaries due for July to the President of the Republic, the Secretaries of State, and Councilors of State have been withheld by order of Mr. Bailly-Blanchard, United States Minister. On behalf of the nation, I protest to Your Excellency against this measure of violence, which is an assault against the dignity of the Haitian Government and people.

DARTIGUENAVE

838.516/147 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 6, 1920—6 p.m.

60. Your August 5, noon.

Department is surprised that you have taken action reported without previous reference to Department for its decision in the

²⁵ File translation revised.

matter. You are instructed in the future to keep the Department informed, daily if necessary, of all developments in the present situation which will assist the Department in forming an opinion as to the policy which it is necessary to pursue in view of the antagonistic attitude of the Haitian Government, but Department must insist that you take no further action which is likely to commit this Government or to prevent the Department from acting freely on its own judgment of the situation, without previous instructions. The Department desires you to cable at once by what authority under existing Treaty rights you have instructed the Financial Adviser to suspend payment of the salaries of the President and other officials of the Haitian Government.

COLBY

838.516/147 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 7, 1920—4 p.m.

61. Your August 5, noon, and Department's August 6, 6 p.m.

If suspension of payment salaries President, Secretaries of State and members Council of State has not yet become effective, or if these officials have not yet been notified that this measure has already been taken, Department desires you to limit your action to a threat to suspend payment or a declaration of your intention to suspend payment upon ratification of this step by Department. Advise Department if this change can now be made.

COLBY

838.002/86 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 9, 1920—10 a.m.

[Received August 10—5:46 p.m.]

47. Department's 58, August 5th, 5 p.m. Report erroneous, no demand made for resignation Cabinet. Stated to the President that Haitian Government must work in accord with the United States Government for the attainment of the aims of the treaty and that such members of the Government as failed to do so should be replaced by others who would. President then stated that it was not the ministers but that it was the entire Government. He absolutely refused to take action to repeal law on ownership of real property in Haiti by resident foreigners or any other matters desired by the American Government, [stating?] that he had felt that this situation was bound to arrive sooner or later.

President was advised that there remained eight days before the adjournment of the Council of State and it was expected that the law on ownership of real property be repealed and the other recommendations of the American Government be complied with within this time. The President brusquely closed the interview. I awaited the adjournment of the Council of State when no action having been taken, I instructed the Financial Adviser to suspend payment of salaries of Government as reported in my 46, August 5th, noon.

BLANCHARD

838,516/148 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 9, 1920—5 p.m.

[Received August 10—6:58 a.m.]

48. Department's 60, August 6, 6 p.m. and 61, August 7, 4 p.m. On July 31st I demanded in writing the immediate repeal of the law on ownership of real property in Haiti by resident foreigners which was passed in violation of the agreement of August 24th, 1918, and over my violent protest. This law is an erroneous interpretation of article 5 of the Constitution, absolutely contrary to spirit thereof, will prohibit the investment of foreign capital in Haiti and will prevent attainment of the aims of the treaty.

The Council of State adjourned on the 4th of August. No action for repeal having been taken I instructed Financial Adviser to suspend payment salaries Government. The basis for my action is found in the language of article 5 of the treaty which requires that the Government of Haiti shall be paid out of such moneys as will remain after the expenses of the offices of the Receiver and the Financial Adviser, the payment of the amortization and interest of the debt of Haiti and the maintenance of the constabulary.

As long as there has been cooperation between the Haitian Government and the United States Government a strict compliance with the requirements of article 5 has not been insisted upon by the American Government and to [the] Haitian Government has been given priority over payment of the amortization and interest of the debt of Haiti. This action is only warranted when the accord between the Haitian Government and the United States Government is [of] such a character as to enable the provisions and purposes of the treaties to be carried into effect. These purposes not being possible of attainment by reason of the action and attitude of the Haitian Government, I have by my act reverted to the provision of the treaty and thereby deferred payment of salaries of the Haitian

Government until such time as full accord shall have been reestablished.

BLANCHARD

838.51/943b : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, August 12, 1920—6 p.m.

63. In its reply to the cable sent to the President by the President of Haiti, conveyed to you in another telegram, the Department has stated that it has suggested to you that you may, if in your opinion such a step is advisable, suspend the action which you have taken in directing that the salaries of the members of the Haitian Government be withheld, for a period of 30 days. The Department desires you to adopt the measure indicated if there is any evidence of a change in the attitude of the Haitian Government upon receipt of the Department's statement, tending to show that the Government of Haiti is willing to adopt a policy of frank cooperation with the Government of the United States in carrying out the purposes of the Treaty, and any indication that they intend to repeal the legislation passed in violation of the agreement to submit such legislation to the American Legation before promulgation.

The Department has been greatly hampered in forming an opinion as to the legislation in question by your failure to provide it with full and explicit information on this point. If you have not already done so, the Department desires you to send by the next mail copies of all laws, passed in violation of the agreement referred to, which you have stated are unsound and improper. The Department once more desires to impress upon you the necessity of your keeping it fully informed of all developments in the present situation, and in particular desires you to advise it immediately if you deem it desirable to take the step suggested by the Department and suspend the withholding of salaries of officials of the Haitian Government for the period indicated.

COLBY

838.51/943a : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, August 12, 1920—7 p.m.

64. You are instructed to obtain an interview with the President of the Republic and to present to him the following in the form of a *note verbale*:

"The Department of State has been instructed by the President of the United States to acknowledge the receipt of the cablegram of his Excellency the President of Haiti advising the President of the United States that by order of the American Minister at Port au Prince the Financial Adviser to the Haitian Republic has suspended payment of the salaries due for the month of July to the President, the Secretaries of State and the members of the Council of State of the Haitian Republic. The President of Haiti protests against this measure which he terms an assault upon the dignity of the Haitian people.

The Government of the United States deeply regrets the cause which has impelled the American Minister to take this grave step. The President of Haiti will recall that the Treaty of September 16, 1915 between the United States and Haiti was concluded with the purpose of confirming the amity existing between the two Governments by the most cordial cooperation in remedying the condition of the revenues and finances of Haiti, in maintaining the tranquility of the Republic, and in carrying out plans for the economic development and prosperity of Haiti and its people.

The objects desired can only be obtained, the President of Haiti will readily appreciate, by the closest cooperation between the two countries. Such cooperation which so happily existed heretofore has recently unfortunately been lacking, and the American officials whose appointments are provided for in the Treaty have encountered in the fulfillment of their duty not only opposition on the part of the Haitian Government, but also a deliberate disregard of the provisions of an agreement, growing out of the Treaty, which was solemnly entered into by both Governments.

During the period when cooperation between the two Governments in the carrying out of the purposes of the Treaty fortunately continued, the President of Haiti will recall that the Government of the United States, which by the terms of the Treaty has undertaken the reorganization of Haitian finances in order to enable Haiti to liquidate fully her debts, did not insist upon a strict compliance with the requirements of Article 5 of the said Treaty, but gave priority to the payment of the current expenses of the Government of Haiti over the payment of the amortization and interest of the Haitian debt. Such action, the President of Haiti will realize, can only be undertaken when the Government of the United States and the Government of Haiti are in such full accord as to render it possible to carry into effect the objects of the Treaty. The Government of the United States has regretfully been forced to the conclusion that these purposes are at present impossible of attainment by reason of the recent and marked change in the attitude of the Haitian Government. The Government of the United States has therefore been obliged to take steps to provide for a strict observance of the terms of Article 5 of the Treaty of September 16, 1915 until such time as the Haitian Government shall evidence its desire once more to cooperate with the American Treaty officials in the carrying out of the aims and objects of the Treaty.

In the belief, however, that the present situation may have been caused in part by misunderstanding or lack of full comprehension of its obligations under the existing Treaty on the part of the Government of Haiti, the Department of State has informed the American

Minister at Port au Prince that he may, as an act of deference, if he believes such a step would be conducive to a better understanding, suspend the action which he has taken in directing that the salaries of the President, the Secretaries of State, and the Councilors of State of Haiti be withheld, for a period of 30 days, in the hope that before the conclusion of that period the Government of Haiti may once more manifest its desire to cooperate cordially with the Government of the United States in carrying out the objects of the Treaty.

The Government of the United States is animated by no selfish purpose in its relations with the Government of Haiti, but is guided by true friendship for the Republic of Haiti and the Haitian people, and by regard for the responsibility which it has assumed in standing as sponsor before the world for the performance by Haiti of her international obligations. It has no ulterior purpose. Its sole aim is to assist the Haitian Government to place the revenues and finances of the Republic on a stable basis; to help the Haitian Government to maintain such tranquility in Haiti as can only be obtained by the general observance of law and order, and to contribute in every proper way to advance the prosperity of the Republic and the well-being of its people."

COLBY

838.51/948 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 20, 1920—11 a.m.

[Received August 21 (?)—10:50 a.m.]

53. Department's August 12, 6 p.m. and August 12, 7 p.m., my 51, August 17, 6[4] p.m.¹⁵ In audience with the President this morning presented [proposals?] ¹⁶ adding my readiness to take the action suggested by the Department of State if the Haitian Government, to show its desire to fully cooperate with the American Government, would immediately obligate itself to repeal the following laws passed in violation of the agreement of August 24, 1918: On ownership of real estate in Haiti by resident foreigners, returning sequestered property to Germans, on pensions, on duty on motor vehicles, etc., on trade marks, on mines and mining concessions, on preparation of primary school teachers, on preparatory manual training schools, on railroads and tramways, on firearms and ammunition, on survey; and to enact the following laws: Putting in operation section 15 of the contract of the retrait and reaffirming the gourd[e] as the legal money of Haiti, providing for the leasing of state land on long delay terms, establishing the ten modifications in the charter of the Banque Nationale de la République d'Haiti, of approval of the transfer of the Banque Nationale de la République d'Haiti to

¹⁵ No. 51 not printed.

¹⁶ The *note verbale* in which the Minister presented the proposals was dated Aug. 19.

the new Banque Nationale de la République d'Haiti, a Haitian corporation, and then take up the consideration of the budget.

The President stated that an extraordinary session of the Council of State had to be called for the purpose and he could not convoke it unless the members thereof were paid. To overcome this supposed difficulty in the exercise of the discretionary power, conferred upon me by the Department, I notified the President that the salaries of the Government would be paid for the month of July and 30 days granted for the carrying out of the program outlined above. He stated that immediately after the payment he would [convoke] the Council of State, his message to the Council of State on assembling to contain the list of laws to be repealed and enacted. I left with the definite understanding that the program would be carried out. Three quarters of an hour afterwards I received the visit of the Minister for Foreign Affairs who came in the name of the President to inform me that the Government officers could not accept the payment of salaries because of the attached conditions. This refusal by the President shows a deliberate intention on the part of the Haitian Government to persist in its disregard of the provisions of the convention and of the agreement. The Haitian Government is in consultation with the aggressively anti-American element and by means of propaganda is daily consolidating behind itself all that element throughout the country. . . .

BLANCHARD

888.52/15

The Haitian Chargé (Blanchet) to the Secretary of State

[Translation]

WASHINGTON, August 21, 1920.

MR. SECRETARY OF STATE: Under instructions received to that effect, I have the honor to forward herewith to Your Excellency, first, a note from the Department of Foreign Relations of Haiti relative to the request made by the Legation of the United States at Port au Prince for the repeal of the law of July 16, 1920, determining the application of Article 5 of the Constitution of Haiti; second, the papers specified in and annexed to the said note;¹⁷ third, a copy of the answer of the Department of Foreign Relations to the note of protest from the Legation of France on the subject of the prohibition of the free importation of gold into Haiti;¹⁷ and fourth, a copy of the correspondence exchanged on the same subject by the Legation of Italy and the aforesaid Department.¹⁷

I beg [etc.]

A. BLANCHET

¹⁷ Not printed.

[Enclosure—Translation ¹⁸]

*The Haitian Department of State for Foreign Affairs to the
Department of State*

MEMORANDUM ON THE LAW CONCERNING ACQUISITION OF REAL ESTATE

Mr. Bailly-Blanchard, Envoy Extraordinary and Minister Plenipotentiary of the United States, requests of the Haitian Government the repeal of the law of July 16, 1920, concerning the application of article 5 of the Constitution of the Republic of Haiti, and, in support of that request, claims that the law was enacted without the approval of the Legation of the United States in contravention of the agreement of August 24, 1918. The agreement of August 24, 1918, says:

"The two Governments of the United States of America and Haiti having concluded in 1915 a convention by which they bound themselves to cooperate in restoring Haitian finances, maintaining tranquillity in Haiti, and carrying out a program for the economic development and prosperity of the last-named Republic, the Secretary of State for Foreign Affairs has the honor to advise the Minister of the United States that in accordance with the agreement arrived at between them, every bill dealing with one of the subject matters of the treaty shall, before being introduced in the Legislative Body of Haiti, be communicated to the representative of the United States for the information of his Government and a discussion, if needed, between the two Governments."

In a note dated June 9, 1920, the Department of Foreign Affairs communicated to the Legation of the United States a bill concerning the application of article 5 of the Constitution, although in its opinion that bill could not be taken as one bearing on any of the subject matters of the treaty. The Minister of the United States did not answer that communication until July 21 in a note which was not delivered to the Department of Foreign Affairs until July 27 and in which he said that in answer to the communication of July 9 he was unable to give his approval to that bill which is an erroneous interpretation of article 5 of the Constitution absolutely contrary to the spirit thereof and of a nature to discourage the investment of capital in Haiti.

The bill passed on July 16 and was promulgated in the *Journal Officiel* of July 24.

The Department of Foreign Affairs, in its acknowledgment to His Excellency Mr. Bailly-Blanchard of his note of the 21st, called attention to the fact that it had just been delivered on the 27th and that the bill had been communicated on June 9 and not on July 9.

¹⁸ File translation revised.

On July 31, Mr. Bailly-Blanchard notified the Department of Foreign Affairs that as the law had been enacted without the approval of the Legation, it should be repealed forthwith.

On the same day the Secretary of State stated that he was about to forward that communication to the President of the Republic, but recalled that the law under consideration had been discussed in the Council of State on July 16, and, before being introduced, had been communicated to the Legation of the United States on June 9, 1920.

(a) The agreement of August 24, 1918, provides:

"Every bill dealing with one of the subject matters of the treaty shall, before being introduced in the Legislative Body of Haiti, be communicated to the representative of the United States for the information of his Government and a discussion, if needed, between the two Governments."

Although it did not bear on any one of the subject matters of the treaty, the bill was communicated as a matter of courtesy on June 9, 1920, to His Excellency, Mr. Bailly-Blanchard, who offered no objection, and on July 16 the bill that had been laid before the Council of State was passed.

Was the Government to wait forever for an answer from the Minister of the United States?

(b) Article 5 of the Constitution says:

"The right to own real estate shall be given to foreigners residing in Haiti and to the societies organized by foreigners for purposes of residence, and agricultural, commercial, industrial or educational enterprises.

"This right shall cease after a period of five years from the date when the foreigner shall have ceased to reside in the country or the activities of said companies shall have ceased."

Certain abuses that have been ascertained made it necessary to enact a law to define the scope of the application of that article, which grants the right to own real estate to an alien on certain well-defined conditions.

That law had been forecast by a circular of the Justice Department published in *Le Moniteur* of October 1, 1919.

The law setting the conditions under which aliens may enjoy the right of ownership in Haiti is not a law of interpretation, for the text of article 5 of the Constitution is plain and clear. The law has but one purpose: to map out the course to be taken in enforcing article 5 of the Constitution, which is an instrument of national providence. The Haitian Government is, nevertheless, ready to entertain and discuss with the Government of the United States any amendment or objection to any of the clauses of the law.

838.51/947: Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 21, 1920—2 p.m.

[Received August 22—5:20 p.m.]

54. My 53, August 20th. There appeared in the public press yesterday evening August 20th, an *arrêté*, same date, of the President calling an extra session of the Council of State to meet on Monday September 6th. In view of the action of the Government as detailed in above mentioned cable I called upon the President this morning and asked for an explanation of his action in issuing the call. He replied he had made call for the purpose of submitting to the Council of State the *note verbale* and on my inquiry as to whether or not he would obligate his Government to put through the program at this special session, he replied that he would not obligate his Government in any way. Further stated [that if] the Council of State was paid for the month of July he would revoke his call. Because of this refusal of the Government to assume the obligation of enacting the complete program it is my purpose to call upon the President on Monday the 23rd, and notify him that I shall not authorize the payment of the salaries of the Council of State as such payment was conditional upon Haitian Government obligating itself to carry out the program as an evidence of their frank and full cooperation.

BLANCHARD

838.51/949

The Haitian Chargé (Blanchet) to the Secretary of State

[Translation]

WASHINGTON, August 23, 1920.

MR. SECRETARY OF STATE: In compliance with instructions received from my Government, I have the honor to transmit to Your Excellency the following note:

"The American Minister delivered to the President of Haiti a *note verbale* in which, after discussing Article 5 of the Treaty of September 16, 1915 which does not come into consideration since the expenses of the Government are paid in accordance with the Budget as passed, he says that the Department of State has instructed him that he may as a matter of courtesy cause the salaries of the President of the Republic and members of the Government to be paid, and that he is ready to carry out the suggestion provided the Haitian Government will bind itself immediately to meet fifteen conditions, some of which are impossible of execution.

"The Haitian Government wishes to know whether the Government of the United States wants it, first, to overlook the protests from the British, French, and Italian Legations, the American bankers and merchants of the United States and other countries and of our whole country against a law prohibiting the importation of American gold into Haiti which law is to be enacted to favor one bank; second, to ratify an Article added to the agreement signed in Washington February 6, 1920, which has not been previously communicated to the Government.¹⁹

"The members of the Haitian Government still [convinced] of the efficacious assistance and cordial cooperation of the United States are ready to carry out for the best interest of the nation such directions as may be given it by the great allied and free power."

(Signed) Barau

I beg [etc.]

A. BLANCHET

838.51/948: Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 26, 1920—7 p.m.

69. Your 53, August 20, 11 a.m., and 54, August 21, 2 p.m.

Department is gratified by receiving the very full information furnished and desires you to continue reporting as fully upon all subsequent developments.

It is regretted that you did not carry out instruction contained in Department's August 12, 6 p.m., and suspend the action taken in withholding salaries for 30 days; later, after receipt by you of some intimation that Haitian Government desired once more to cooperate with this Government, notifying the President that this Government would consider that the cooperation desired must entail the carrying out of the program suggested by you. The Department desired that the President and his Cabinet be afforded the opportunity of changing the antagonistic attitude which they had assumed without the appearance of doing so under direct compulsion.

The Department has received today formal assurances from the Haitian Government that "the members of the Haitian Government, still convinced of the efficacious assistance and cordial cooperation of the United States, are ready to carry out for the best interest of the nation such directions as may be given it by the great allied and free power". The Department will inform the Haitian Government that it considers carrying out of the following program essential in the interests of the Haitian people, and an evidence of the desire of that Government to cooperate once more with the Government of the United States: the repeal of the laws passed in violation of the agreement of August 24, 1918 as enumerated in your telegram of August

¹⁹ See p. 816.

20, 11 a.m.; and the enactment of laws placing in operation Section 15 of the Contract of the Retrait, providing for the leasing of state land on long delay terms, and reaffirming the gourde as the legal money of Haiti. The Department does not consider it necessary or appropriate to insist at this time that the Government of Haiti, as an evidence of its desire to cooperate with this Government in carrying out the obligations of the Treaty, establish the modifications of the bank charter or approve the transfer of the charter to the new bank. If the attitude of the Haitian Government changes and the program above mentioned is carried out, negotiations regarding the modifications to the bank charter and its transfer can then be once more undertaken by the National City Bank with the Haitian Government with such support on the part of the Financial Adviser as he may consider necessary.

COLBY

838.51/949

The Secretary of State to the Haitian Chargé (Blanchet)

WASHINGTON, August 27, 1920.

SIR: The Department has received your note of August 23, transmitting a communication from your Government.

I am particularly gratified in receiving this communication from the Haitian Government to note the statement made that the members of "the Haitian Government, still convinced of the efficacious assistance and cooperation of the United States, are ready to carry out for the best interest of the nation such directions as may be given it" by the Government of the United States for the purpose of fulfilling the objects of the Treaty of September 16, 1915.

The Department of State believes that cooperation between the Government of Haiti and the Government of the United States may once more be made possible if the Government of Haiti will immediately take steps to suspend the following laws, passed in violation of the agreement entered into by both Governments on August 24, 1918, until they shall have been submitted to the American Legation for its approval and until such laws or portions of laws as are not approved by the American Legation shall have been repealed:

- On ownership of real estate in Haiti by resident foreigners;
- On returning sequestrated property at present to German residents of Haiti;
- On pensions;
- On duty on motor vehicles, etc.;
- On trade-marks;
- On mines and mining concessions;

On preparation of primary school teachers;
 On preparatory manual training schools;
 On railroads and tramways;
 On firearms and ammunition, and on survey; and

If the Government of Haiti will at once take steps to enact the following laws:

Placing in immediate operation Article 15 of the contract for the retirement of Haitian currency;
 Providing for the leasing of state land on long delay terms; and
 Reaffirming the gourde as the legal money of Haiti.

Accept [etc.]

For the Secretary of State:
 NORMAN H. DAVIS

711.88/147½

The Haitian Chargé (Blanchet) to the Secretary of State

[Translation ²⁰]

WASHINGTON, September 8, 1920.

SIR: Under instructions to that effect which I have received, I have the honor to forward herewith to Your Excellency, first, my Government's answer to the *note verbale* that was delivered on August 19 last to His Excellency the President of the Republic of Haiti by His Excellency Mr. Bailly-Blanchard, Envoy Extraordinary and Minister Plenipotentiary of the United States of America,²¹ following the cablegram sent by His Excellency the President of Haiti to His Excellency the President of the United States,²² and second, the papers appended to that answer,²³ namely, a statement of receipts and expenditures of the Republic and vouchers numbered from A to E and certified, a copy of the law of July 30, 1919, creating manual training sections, and a copy of the law of July 30, 1919, relative to normal training.

I beg [etc.]

A. BLANCHET

[Enclosure—Translation ²⁰]

The Haitian Department of State for Foreign Affairs to the Department of State

Reply to the *note verbale* delivered by His Excellency Mr. Bailly-Blanchard, Envoy Extraordinary and Minister Plenipotentiary of the United States, to His Excellency the President of Haiti on August 19, 1920 ²¹

²⁰ File translation revised.

²¹ See telegram no. 64, Aug. 12, to the Minister in Haiti, p. 774.

²² *Ante*, p. 771.

²³ Appended papers not printed.

The Haitian Government was painfully surprised on learning that, in the existing difference between it and the American Minister to Haiti, the Government of the United States regretted only the cause which compelled its representative to take the grave decision of stopping the payment of the salaries of the President of the Republic, the Secretaries of State and the Members of the Council of State.

And what is that cause? The noncooperation of members of the Haitian Government with American officials.

In French "cooperation" means the working together for the completion of a common undertaking so that the work achieved may be the result of the ideas and experience of all of the participants.

It has always been so understood by the Haitian Government.

Hence on all questions which call for the collaboration of American officials in putting into operation the convention of September 16, 1915, it has never failed to communicate its plans, first, to the Financial Adviser for his opinions and recommendations, and secondly, to the Minister of the United States for the information of his Government and, if need be, for a discussion between the two Governments in accordance with the agreement of August 24, 1918, reading as follows:

"The two Governments of the United States of America and Haiti having concluded in 1915 a convention binding them to cooperate in restoring Haitian finances, in maintaining the tranquillity of Haiti and in carrying out a program for the economic development and prosperity of that Republic, the Secretary of State for Foreign Affairs has the honor to inform the Minister of the United States that in accordance with the understanding arrived at between them all bills dealing with one of the objects of the treaty will, before being introduced in the Legislative Body of Haiti, be communicated to the representative of the United States for the information of his Government and, if need be, a discussion between the two Governments."

The American Minister and the Financial Adviser do not so understand cooperation.

The Minister does not discuss, the Financial Adviser does not recommend. Their decisions are orders which the Government is simply required to present to the Legislative Council and which the Council must pass in their entirety.

When the American Minister and the Financial Adviser do not approve a bill they simply say, without further explanation, "We object." Sometimes they make no answer and the bill which the

Government had drawn up at the cost of long study and great care is buried without further ceremony. The list is long of bills that are so languishing in the files of the American Legation! To cite but one example: A law on rural organization, of greatest importance to Haitian agriculture, has been, since August 1918, in the hands of the American Minister; the Government has never heard anything more about it.

When the American Minister and the Financial Adviser introduce amendments in a Government bill, they require those amendments to be accepted without discussion. When they are acceptable and even if they do not entirely agree with the nation's wishes, the Government, in its ever conciliatory spirit, accepts them so as not to endanger a reform which it deems necessary. But when they are such as to destroy the intent of the bill or are obviously contrary to the interests of the people or infringe upon the dignity of the Government or, as is often the case, bestow upon the treaty officials unwarranted powers, inconsistent with the convention, the Government rejects them, and then it is charged with "noncooperation".

If this condition of continual submission which seems always to be imposed upon the Haitian Government is in fact what the American Legation calls "cooperation", the word has a meaning that the Haitians are unable to grasp.

The Financial Adviser's understanding of "cooperation" is shown by the following typical instance: Having seen fit to pay the deferred interest on the foreign debt, Mr. McIlhenny proceeded to do so against the written instructions of the Government and without notifying it. It was only through the French press that the Government heard of this transaction of 28,000,000 francs.

The Government cannot admit the universal competency assumed by the American Minister and the Financial Adviser, who believe they have the right of *sovereign* decision on all questions—legislation, finance, commerce, public works, and public instruction—for a people with whose manners, needs, and aspirations they are unacquainted.

The Government feels that under all circumstances it has shown its good will and sincere desire—which occasionally has gone so far as a sacrifice—to cooperate with American officials. It has achieved much, since all the important bills that could be enacted—often at the cost of great difficulties—come from its own initiative. And that is one of the grounds of complaint: While the bills looking to the economic and moral reorganization of the country are so often rejected without consideration, nothing is ever offered instead that could meet the objects of the convention by making effective the efficacious assistance solemnly pledged to Haiti by the Government

of the United States. The only bill since 1915 that emanates from the Financial Adviser is that relative to internal taxes which, with the support of the American Legation, he attempted to force upon the Government without examination; an intricate, complicated bill, several parts of which are inapplicable and against which the Department of Finance set up a counter draft of which it has heard nothing for a year. The inaction shown on this point is characteristic. The Financial Adviser, Mr. Ruan first, and Mr. McIlhenny next, only departed from it to set themselves to search for a loan, the flotation of which was considered by the last-named gentleman as the main object of his mission to Haiti: the loan failed. And now his economic and financial plan, that which is to insure "the happiness and prosperity of the Haitian people", is the plan which consists in indirectly giving to the National Bank of the Republic of Haiti a monopoly of the commerce in foreign currency. And because the Government, together with the Haitian and foreign merchants, protests, as does the whole nation, against this scheme of "strangulation", it is charged with unwillingness to cooperate with the American Government.

The Haitian Government cannot bring itself to believe that the Department of State, once acquainted with the true situation of Haiti and the evil consequences that would flow from the proposed measure, could give its approval to the plan consisting in:

1. Making the Financial Adviser the sole judge of the amount of foreign coins needed by the Haitian people for their commerce, their industry, civil obligations of private persons, and the needs of general consumption.
2. Placing the National Bank of the Republic of Haiti, in so far as the importation of foreign currency is concerned, in a privileged situation which would make all other bankers, commercial and industrial, of Haiti—as expressed in the strong protest by the business community—the "humble tributaries of that concern, whose laws and whims they must obey".

The economic reasons which stand against the measure relative to the prohibition of foreign currency have been fully set forth. Haiti would be the only country in the world to adopt it. All the Republics of America that are in nearly the same financial and economic condition as Haiti have adopted a measure which is the very opposite of that now proposed to the Government; they open a wide door to American gold. The most recent instance is that of Salvador where, after a new monetary unit on the basis of .835 grams .900 fine and represented by bank notes in circulation had been established by a law of September 9, 1919, the gold coin of the United States of America was declared legal tender; as a consequence of this measure, a legislative order of September 16, 1919,

abolished all duties on American gold so as to permit it the widest circulation in the country. Circumstances being identical, why should that which is good for Salvador be bad for Haiti?

The American Foreign Banking Corporation justly says in its protest of July 30, 1920:

"The proposed clause constitutes a direct and unwarranted restriction on banking business; it leaves to the discretion of a single official, whose decision is final and who may not be always well informed as to the needs of a bank, the power to grant or refuse permission to import gold. However regrettable his decision may be and however harmful to our interests, it is without appeal."

How can we believe indeed that in so complicated a question the Financial Adviser can pass sovereign judgment on the needs of the market; that he can at each moment decide in an infallible manner how much gold coin is needed for all the commercial, industrial, and civil transactions of the whole country? Is not Mr. McIlhenny then liable to err? He has on a recent occasion demonstrated that like all other men he may make mistakes. Being called upon to convert into francs \$3,000,000 for the account of the Government at the best possible time and rate—he found in November last that the best time had arrived and that the best rate was available, and he converted at the average rate of 9.20¼ to the dollar. Not long thereafter the franc fell to 17.18. This mistake meant to the Republic of Haiti a loss of several million francs. If an expert financier, as is Mr. McIlhenny, surrounded by the best knowledge, residing in New York and able to watch on the spot the fluctuations of exchange on the principal market of foreign money, could have made such a grievous mistake in his forecast, how can it be believed that he could never make any mistakes in estimating the amount of gold needed on the Haitian market? On what data would he rest his opinion? On that which would be furnished by the National Bank of the Republic of Haiti. One can see at once what would become of other bankers and merchants at the hands of that bank, whose hard dealing in business is well known, and which, not more than a few months back, came near causing a formidable crash in the market by suddenly and ruthlessly stopping all credits.

It may be seen that the advantages of the measure would be incalculable to the National Bank of the Republic of Haiti; no one has yet attempted to show what may be its advantages to the country. Now when all the Haitian and foreign merchants and the whole Haitian people back their Government's protest against a measure which they unanimously declare to be disastrous, is it conceivable that Mr. McIlhenny and the National Bank of the Republic of Haiti can be right as against everybody else?

The note delivered by the American Minister,²³ in referring to article 5 of the treaty of September 16, 1915, states that the American Government "did not insist upon a strict compliance with the requirements of Article 5, but gave priority to the payment of the current expenses of the Government of Haiti over the payment of the amortization and interest of the Haitian debt."

And further on: "The Government of the United States has therefore been obliged to take steps to provide for a strict observance of the terms of Article 5 of the Treaty of September 16, 1915 until such time as the Haitian Government shall evidence its desire once more to cooperate with the Treaty officials in the carrying out of the aims and objects of the Treaty."

The Haitian Government must not make a secret of its inability to see that an application of article 5 of the treaty of September 16, 1915, can be invoked with respect to the forcible withholding of the salaries of members of the Government. The payment of those salaries is made by virtue of a budget discussed with the Financial Adviser and for which all the appropriations have been agreed upon between that official and the Haitian Government; and that budget has been in force without any difficulty for ten months.

The Haitian Government, much to its regret, can only consider the suspension of payment of the salaries of the President of the Republic and of other members of the Government as an unwarranted measure of coercion intended to compel it to adopt financial and other schemes which it regards as absolutely antagonistic to the recognized interests of the Haitian people.

But after making this reservation the Haitian Government declares that it also demands the strict enforcement of article 5 of the treaty of September 16, 1915. The receipts of the Republic of Haiti, as will be readily seen by the statements of receipts and expenditures appended to this note,²⁴ are actually sufficient to cover all Government expenses as set forth in said article 5, including the payment of Haitian officials and employees, although their salaries are the last to be paid out of Haitian funds.

The Department writes that all measures taken in Haiti by its agents are "in the interests and for the happiness of the Haitian people." Ill informed as to the true situation in Haiti, it does not see the bitter irony there is in that sentence for the Haitian people, who will find it hard to believe that they are subjected to so many annoyances and humiliations for their own good.

It is a matter of grievous sorrow to the Haitian Government that all its grievances and complaints are rejected when it would be so

²³ See telegram no. 64, Aug. 12, to the Minister in Haiti, p. 774.

²⁴ Not printed.

easy for the Department of State to verify their accuracy by having investigations conducted on the ground by impartial and conscientious men.

The Haitian Government does not ask that its assertions be accepted; it asks to have its statements verified and that credit be not given to its accusers' statements only. Strict justice so demands, and the Government still cherishes too great a confidence in the sentiment of justice which animates the great American people not to remain convinced that its good cause will finally triumph.

Indeed the Haitians trust that the Government of the United States will decide for right and justice, for it was in the defense of those ideals that it launched its enthusiastic youth on the battlefields of Europe, and that so many brave Americans fell at Chateau-Thierry, in the Bois Belleau, and on the plains of Woevre!

As a complement to the note handed to the Haitian Government under the instructions of the Department of State, the Legation of the United States at Port au Prince adds that the American Minister is quite ready to pay the salaries, so forcibly withheld, of the members of the Government and the Council of State, on condition that the Haitian Government will immediately pledge itself to repeal eleven laws enumerated under numbers 1 to 11 and to procure the enactment of four other laws mentioned under the letters *a*, *b*, *c*, and *d*.

The greater part of the laws whose repeal is demanded, as for instance that on surveys and that on firearms and munitions, which were never promulgated, was only mentioned to swell the number and lengthen the list of grievances which the Legation of the United States has been pleased to bring against the Haitian Government.

Yet in further evidence of its good faith, if it were needed, and to give additional proof of its wish to agree with the Government of the United States, the Haitian Government will now furnish the most complete explanations about the eleven laws, the repeal of which would be forced upon it:

1. Law relative to the right of foreign residents to hold real estate in Haiti

The law of July 21, 1920, relative to the right of foreigners residing in Haiti to hold real estate was communicated as a matter of mere courtesy to the Legation of the United States at Port au Prince in a note dated June 9, 1920. That communication was only acknowledged to the Department of Foreign Affairs in a letter dated July 21st which was not delivered until the 27th of the same month, after the law had been promulgated on July 24th.

It is quite clear that if the Legation of the United States at Port au Prince did not offer its remarks in good time, the blame lies upon others than the Department of Foreign Affairs.

The Legation of Haiti at Washington was instructed to deliver a note on the subject to the Department of State.²⁴ And in that note the Haitian Government, in order once more to give evidence of its desire for harmony and understanding with the American Government, repeated what it has always stated when writing to the American Legation, namely, "that it is ready to entertain and discuss with the Government of the United States any amendment or objection to any of the clauses of the law."

2. Law returning to Germans their sequestered property

The American Legation probably means by that the law creating the Office of Compensation and Verification.

The law was introduced under section 3 of part X of the Treaty of Versailles, and was communicated to the Legation of the United States, which declared it had no objections to offer. The Council of State, however, in its vote on the law added two new articles to the bill that had been placed before it. The Department of Foreign Affairs immediately, by note of July 17, 1920, acquainted the Legation of the United States with the two additions made by the Council of State, and drew its attention to article 63 of the Constitution which sets the time limit within which the President of the Republic may exercise his right to veto a law that has been passed.

On July 21 the American Minister wrote to the Department of Foreign Affairs informing it that as the law was of very great interest to the American Government, he had cabled the text of the two articles for instructions thereon, and that pending the receipt of instructions, the American Legation asked that the law be not promulgated.

Having heard nothing further up to August 10, the Department of Foreign Affairs again wrote to the Legation of the United States advising it that under article 64 of the Constitution the law must be promulgated if, within the time specified by article 63 of the Constitution, the President of the Republic had not exercised his right of veto.

The United States Legation's answer to that further communication was that on the request of the Department of State it had despatched by courier the text of the two articles added to the law by the Council of State and that as soon as an answer came from the Department of State it would inform the Haitian Government, and again it renewed its request that the law be not promulgated.

And the Haitian Government has not promulgated the law notwithstanding the embarrassing position in which it is placed in meeting the requirements of the Constitution.

3. Pension law

The Civil Pension Law of August 10, 1894, provides by its article 18: "Any citizen who shall have reached the age of 50 years and, during 25 years at least, performed duty in any one of the legislative, judicial or executive offices enumerated in the table of the law of November 19, 1864, will be entitled to a pension on the Public Treasury."

²⁴ Note of Aug. 21, 1920, from the Haitian Chargé, p. 777.

The Government considered that the act of a citizen, who was an official or former official, in applying for a settlement of his pension should be considered as placing him *ipso facto* on the retired list and consequently as the resignation on his part of any further public employment.

The Government further considered that a citizen when fifty years old is still possessed of enough strength and energy to work and that it was therefore necessary to advance the age at which he would be qualified to become a pensioner. The new law calls for 60 years instead of 50 years as provided by article 18 of the law of 1894. This is a real saving to the Public Treasury. In Haiti as elsewhere there must be fewer men of 60 than of 50 years of age. But it was fair at the same time to return to the officials and employees at least the twelfth part of their salaries upon their assuming office, previously deducted from them under the law of September 24, 1884, especially when no deduction is made on the salaries of the high officials, Cabinet members, senators or deputies, who are entitled to the largest pensions.

Article 5 of the new law affords another saving: the pension is due under that article only when the case is disposed of. Under the law of 1894 it began to run from the date of the application filed by the person entitled to the pension.

Be that as it may, the law of June 9, 1919, amending certain provisions of previous laws relative to civil pensions is not one of those contemplated in the notes exchanged between the Department of Foreign Affairs and the American Legation on the subject of the application of the convention of September 16, 1915.

4. *Law concerning customs duties on automobiles, typewriting machines, etc.*

The Government can only confirm its previous statements in its memorandum of July last in answer to that from the Financial Adviser delivered to the President of the Republic by the American Minister at Port au Prince on the 19th of the same month:

On May 14, 1919, the Council of State, on the motion of Councillor Pierre Hudicourt enacted a law placing import duties on automobiles, trucks, typewriting machines, automobile tires, and air chambers.

That law was criticized by the Receiver General, who imparted his criticism to the Department of Finance and Commerce, pointing out that those duties were too light. The Receiver General concluded by proposing that the Government exercise its right to veto the Hudicourt Law and introduce in the Council of State a bill laying a 10 percent duty on imported automobiles, typewriting machines, etc. This was done.

But the Council of State, in the exercise of the initiative conferred upon it by article 55 of the Constitution, modified the rate as proposed and brought it down to 7 percent. This change made in a Haitian bill by the body now exercising legislative power in Haiti caused the law to be ignored by the American Legation, the Financial Adviser, and the Receiver General. And in spite of that law a 20 percent *ad valorem* duty is levied on automobiles, typewriting machines, etc.

The Department was constrained to draw the Receiver General's attention to that excessive and unlawful duty upon certain protests filed by an American importer, and also to the fact that in the Dominican Republic automobiles are liable to a duty of only 5 per cent, and motor trucks are imported duty free.

5. Law relative to trade marks

The Haitian Government also confirms the statements made in its memorandum of July last in which it replied to that of the Financial Adviser delivered to the President of the Republic by the American Minister at Port au Prince on the 19th of the same month.

The law relative to trade marks does not come under article 9 of the convention of September 16, 1915. It creates new resources for the public fund. The actual work (registration of marks) which yields those resources finally devolves upon the Chamber of Commerce. It was only fair that the law grant to the Chamber one-half of the fees collected on each registration. Such allowance is not a favor or bounty of the law by which the Chamber of Commerce profits; it simply covers expenses (rent, books, physical work of registration, correspondence, etc.).

6. Law relative to mines and mining concessions

This law is not one of those that must previously be communicated to the Government of the United States before being submitted to a vote, in order to give that Government an opportunity to offer suggestions. Indeed it is a law which in its object does not relate to any clause of the treaty signed with the United States and does not imply a burden on the Haitian Treasury. It has always existed in our law and the new act, against which the American Legation protests, is amendatory of that of 1860 which was in a manner defective.

Discussed and adopted by the Council of Secretaries of State between the 20th of July and the 1st of August, 1918, it was immediately referred to the Council of State and passed on February 14, 1919.

It was promulgated in the official journal on the 19th of the same month and it was not until the 19th of August, that is to say more than six months after it had become operative, that objections came from the American Legation.

It has been learned from experience that it was urgent to enact further provisions of law for the better protection of the interests of the State by clearly establishing the rights of the concessionnaires as well as their responsibility when they filed an application for a mining concession.

7. Law relative to the preparation of primary teachers

The two laws referred to in the note of the Minister of the United States have been promulgated by the President of the Republic since July 31st of last year.

The law of July 30, 1919, relative to normal courses grants the option, in accordance with appropriations, to organize in certain primary schools already existing normal sections for the preparation of teachers, especially in the country.

8. *Law relative to occupational training schools*

The law of July 30, 1919, relative to manual training schools empowers the Secretary of State for Public Instruction, in accordance with appropriations, to organize in the primary schools already existing courses in manual trades.

Those two laws are purely technical in their character and have no connection whatever with the convention of September 1915, as a perusal of those laws, copies of which are hereto appended, will clearly show.

The American Minister nevertheless hampered the creation of some of those classes and sections although the appropriations therefor had been made in full accord with the Financial Adviser who had recognized their urgent necessity. Those laws have since been communicated to the American Minister, who has never answered the communication.

9. *Law relative to steam railways and street railways*

What has been said about the law on mines also applies to that on railways. Yet, although that last-named law is not included in the category of those referred to in the note of August 24, 1918, it was sent to the Department of Foreign Affairs to be communicated to the American Legation by way of simple information. The Legation, which received it in October 1918, held it until August 1919 without comment. It might be inferred from that silence and on good grounds that it had no objections to make.

10. *Law relative to firearms and ammunition*

In 1919, General Williams, then Chief of the *Gendarmerie* recommended to the Government a law relative to firearms and ammunition. After several exchanges of views with the Chief of the *Gendarmerie*, the bill was introduced in the Council of State and passed. The Government thought that the Chief of the *Gendarmerie* had communicated a draft of the bill to the Minister. But it learned otherwise only when the American Minister protested against the law and asked to have it amended. The amendments introduced in the Council of State were partly accepted and partly rejected. The American Minister again protested against the promulgation and the publication of the law. Therefore this law can only be repealed after having been promulgated and published.

11. *Law relative to survey*

The bill relative to survey was introduced in the Council of State in May 1919 and passed on June 16, 1920.

It may be remarked that this law, which is of a purely technical character, goes no further than adding a few provisions which experience showed to be necessary to the old law of September 1, 1845, particularly in respect to: (1) the number of surveyors and the conditions for their examination, (2) their residence, (3) the fee to be collected. As for the method of operations of the surveyors, it remains with few differences what it was at the time of the law of 1845. A few sanctions were added which were lacking in the earlier texts.

This law cannot be included among those which, under the agreement of August 24, 1918, must be communicated.

With regard to the four laws hereinbelow, the enactment of which is demanded, the Haitian Government hastens to furnish the following information:

A.—Law putting into operation section 15 of the contract of retreat and confirming the gourde as being the legal currency of Haiti

The note of the Minister of the United States calls upon the Government to adopt article I of the bill of the Financial Adviser, worded as follows: "In accordance with the law, the gourde is and remains the national monetary unit and as such is legal tender throughout the Republic."

The Government does not know to what law the Adviser refers.

No monetary unit can be established without specifying the weight and fineness. So the franc, the French monetary unit, is defined by the law of Thermidor 28, year III of the French Revolution: "The value of 5 grams of a silver alloy .900 fine."

The United States dollar is a gold coin weighing 1.6718 grams and .900 fine (Revised Statutes of the United States and act of March 14, 1900, section I²⁵). It is essential to state the weight in precious metal and the fineness of the alloy in determining the unit of value. That is what the monetary legislation of every country has done. That is what was done by article 2 of the Haitian law of April 16, 1913, fixing as follows the national monetary unit: "On and after January 1, 1914, the national monetary unit shall be the gold gourde, the weight and fineness of which shall be identical with the weight and fineness of the quarter dollar of the United States of America in gold, namely, .418 grams .900 fine with .100 copper, with an allowance of .002 in fineness. The gourde is divided into one hundred parts or centimes."

The Government agrees upon the reduction of the monetary unit of Haiti from a quarter to a fifth of the gold dollar of the United States by substituting in the foregoing article fifth for quarter and .3348 grams for .418 grams.

The national currency can only be gold. It was that to which the Government pledged itself in its contract with the National Bank of the Republic of Haiti. Article 12 of the contract with the bank runs as follows: "For the purpose of promoting transactions by stabilizing currency, the Government undertakes to establish in the country a national monetary unit on a gold standard".

It was for the purpose of achieving that result that the Haitian people underwent the costly sacrifice of the loan of 1910. The Financial Adviser's proposal would lead us to adopt as the sole national currency the paper money consisting of notes issued by the bank. Those notes are legal tender under the contract of concession with the bank and under the convention of August [April?] 12, 1919.²⁶ No new law is required to impart that character to them.

B.—Law providing for long-term leases

The bill relative to long-term leases was not proposed by the Department of State of the United States. It was drawn up by the

²⁵ Rev. Stat. 696; 31 Stat. 45.

²⁶ Convention of Apr. 12, 1919, printed in *Foreign Relations*, 1919, vol. II, p. 362.

Haitian Government last year and communicated to the American Legation, which made therein amendments investing the Financial Adviser, as is done moreover in all the special laws, with more extensive powers than are conferred upon him by the convention.

C.—Law concerning the ten modifications in the contract with the National Bank of the Republic of Haiti

The Haitian Government is only aware of the modifications signed *ad referendum* at Washington on February 6, 1920, by Mr. Féquière, Minister of Finance,²⁷ and dealt with in the following letter from the Secretary of State, Mr. Bainbridge Colby:²⁸

DEPARTMENT OF STATE

Washington, May 22, 1920.

SIR: I have the honor to acknowledge the receipt of your note of May 4, 1920,²⁹ setting forth certain counter proposals to the amendments recommended by the Department of State in the charter of the National Bank of Haiti in the event of this bank coming under the control of the National City Bank of New York.

The amendments proposed by the Department of State were prompted by the desire to promote the development and interests of Haiti. They have accordingly been carefully elaborated with the advice of the Financial Adviser to Haiti, and were accepted *ad referendum* by Mr. Féquière, Minister of Finance, on the occasion of his presence in Washington at the Second Pan-American Financial Congress. In these circumstances I feel unable to consent to their modification.

Accept [etc.]

(Signed) BAINBRIDGE COLBY

D.—Law approving the transfer of the National Bank of the Republic of Haiti to the new National Bank of the Republic of Haiti, a Haitian corporation

The Department of Finance in behalf of the Haitian Government has constantly said and written to the Financial Adviser that it was ready to adhere to the transfer of the National Bank of the Republic of Haiti, a French corporation, to the National Bank of the Republic of Haiti, a Haitian corporation.

So great is the Government's desire to see that transfer carried out, that when on August 2, 1920, the Financial Adviser wrote to the Secretary of Finance "to announce that he had been informed by his Government that taking into account the constant delays in obtaining the consent of the Haitian Government to the transfer to the new bank, of the concession contract amended in accordance with the agreement between the Government of the United States of America and the National City Bank, the Government of the United States of America had consented to let the operations of the National Bank of the Republic of Haiti continue indefinitely under the now existing French contract without amendment", the Secretary of State for Finance informed the Financial Adviser on August 3, that while taking note of the foregoing communication, he informed him that "the Government is still ready to give its assent to the transfer of the National Bank of the Republic of Haiti to the National City Bank; to the incorporation of the latter under the Haitian law; and to the modifications in nine articles to be introduced in the contract of

²⁷ *Post*, p. 816.

²⁸ The letter was addressed to the Haitian Chargé.

²⁹ Not printed.

the said National Bank of the Republic of Haiti just as they were decided on in Washington on February 6 of this year by the Minister of Haiti to the American Government, you, and myself, and just as they were accepted by the Haitian Government when submitted to it." And the Secretary of State for Finance added that "it only depends upon the National Bank of the Republic of Haiti to carry out the agreement, thus decided upon, to which the Government has never refused to adhere."

How can it be said after that that the transfer is delayed by the Haitian Government?

838.00/1691f

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 340

WASHINGTON, September 8, 1920.

SIR: Because of the situation which has recently developed in Haiti, and in view of the recommendations contained in your telegram of August 20, 11 a.m.,³⁰ the Secretary of the Navy has instructed Rear Admiral Harry S. Knapp to proceed to Port au Prince as Military Representative of the United States in Haiti.³¹

The attitude of antagonism adopted by the Haitian Government at the present time and the consequent tension which now exists between your Legation, and the American treaty officials in Haiti, and the members of the Haitian Government has caused the Department grave concern. The Department realizes that you have sought to do nothing more than your duty, and that you have desired that no dangerous friction should develop because of present conditions. The Department feels, however, that it often happens that a situation which proves hopelessly intractable to the immediate parties to a controversy of this character becomes more readily manageable upon the introduction of a new personality into the discussion. It is hoped that the presence of Admiral Knapp in Port au Prince as the Military Representative of the United States may have this desired result, and that by reason of the powers vested in him he may render you the support and assistance which it is the desire of the Department to afford you.

The Department is sure that you will accord to Admiral Knapp, in his dealings with the Haitian Government, your full and cordial cooperation, and desires the American treaty officials to collaborate with him in every way.

From recent information, the Department is led to believe that the Haitian Government is desirous of accepting any recommenda-

³⁰ *Ante*, p. 776.

³¹ Rear Admiral Thomas Snowden was to be relieved of his duties as Military Representative in Haiti for the period during which Rear Admiral Knapp should remain in Haiti (letter from the Secretary of State to the Secretary of the Navy, Aug. 30, 1920, file no. 838.00/1691d).

tions made to it by this Government, and it is hoped that upon the arrival of Admiral Knapp, if it has not yet done so, the Haitian Government will at once take steps to put into immediate effect the program suggested in the Department's telegram of August 26, 7 p.m.,⁸² by suspending immediately all legislation passed in violation of the agreement of August 24, 1918, repealing such laws, or portions of laws, as may not be approved by you, and enacting immediately the legislation which the Department has indicated it considers necessary for the well-being of the Haitian people. It is also hoped that as soon as this program shall have been carried out the Haitian Government will signify its willingness to adopt the modifications to the contract of the Banque Nationale de la République d'Haiti, agreed to by this Government, and subsequently approve without delay the transfer of the amended contract to the new Bank.

The Department regrets that it has not succeeded apparently in impressing you with its desire that you keep it closely advised of all developments in your negotiations with the Haitian Government, and that in view of the delicacy of the situation you communicate with the Department and receive the Department's approval of the measures you intend to carry out before taking any important step. The Department realizes the many calls upon your time, but it has felt itself hampered recently in considering the situation which has arisen in Haiti for lack of more full and detailed information, and it is hoped that you will keep it sufficiently informed in the future.

I am [etc.]

BAINBRIDGE COLBY

838.00/1691c

*The Secretary of State to the Military Representative in Haiti
(Knapp)*

MEMORANDUM

WASHINGTON, September 8, 1920.

The situation in Haiti has been a difficult one for some months past. The Haitian Government has adopted an attitude of antagonism to our Legation and to the American treaty officials and this attitude of antagonism has rendered impossible cooperation between the United States and Haiti in carrying out the objects of the Treaty of September 15 [16], 1916 [1915], which, provided for the maintenance of the tranquillity of Haiti; for the taking of steps to remedy the condition of the Republic's revenues and finances, and in

⁸² *Ante*, p. 781.

general for the carrying out of plans for the economic development and prosperity of the country.

The chief source of difficulty has been the refusal of the Haitian Government to abide by the agreement which it entered into with this Government on August 24, 1918, to submit all legislation to the American Legation for approval before passage and promulgation. The result of this refusal on the part of the Haitian Government has been the passage recently of many laws reported by the American Minister in Port au Prince to be unsound and uneconomic, which render impossible the achievement of the aims of the Treaty of 1915. The Haitian Government likewise has been unwilling to accept the recommendations of our treaty officials looking towards the adoption of measures believed to be necessary for the well-being of the country and in the best interests of the Haitian people themselves.

During the past two years, in order to make the financial situation of the Haitian Government easier, the Government of the United States has not insisted upon a strict interpretation of Article 5 of the Treaty, which provides that all sums collected by the General Receiver of Customs shall be, first, applied to the payment of the salaries and allowances of the General Receiver and the Financial Adviser; secondly, to the interest and sinking fund of the public debt; thirdly, to the maintenance of the Constabulary, and, lastly, to the payment of the current expenses of the Haitian Government. Upon definite refusal of the Haitian Government, however, to cooperate with this Government in carrying out the objects of the Treaty, the American Minister notified the Haitian Government that until cooperation between the two Governments was once more made possible by a change in the attitude of the Haitian Government, the Government of the United States would insist upon strict observance of the provisions of Article 5 of the Treaty. This action, resulting in the temporary suspension of the salaries of the Haitian officials, has caused direct protest to be made by the President of Haiti to the President of the United States.

Upon receipt of this protest, the Department of State by direction of the President replied that it believed that the situation which had arisen was due in part to misunderstanding of its obligations on the part of the Haitian Government. The Department of State therefore instructed the American Minister, if, in his opinion such action was desirable, upon receipt of any intimation of a change in the attitude of the Haitian Government, to suspend the effect of the action which he had taken in directing that the salaries of the members of the Haitian Government be withheld, for a period of thirty days, in the hope that before the expiration of that period

the Haitian Government would once more manifest its desire to cooperate fully with the Government of the United States. The Department of State feels that it may be desirable, if conditions appear to warrant it, that this period of thirty days be extended for a further brief period.

The program which the Department of State has informed the Haitian Government it considers must be carried out by the Haitian Government as evidence of its desire to cooperate once more with this Government, is the following:

Immediate suspension by the President of Haiti of the following laws passed in violation of the agreement of August 24, 1918:

On ownership of real estate in Haiti by resident foreigners; returning sequestrated property to Germans; on pensions; on duty on motor vehicles, etc.; on trade-marks; on mines and mining concessions; on preparation of primary school teachers; on preparatory manual training schools; on railroads and tramways; on firearms and ammunition; and, immediate repeal by the Haitian Government of such laws, or portions of the above mentioned laws, as may not meet with the approval of the American Legation; the Department of State has also included as a portion of this program the immediate enactment by the Haitian Government of the following laws:

Placing in operation Article 15 of the Contract of the Retrait; providing for the leasing of state land on long delayed terms, and, reaffirming the gourde as the legal money of Haiti.

The Department of State considers that this program must be placed in immediate operation by the Haitian Government without modification of any kind. It is hoped that the Haitian Government will realize that this program is in the best interests of Haiti, and that this Government will consider the prompt carrying out of the program by the Haitian Government as a proof of their desire to cooperate once more with the Government of the United States in accomplishing the aims of the Treaty of 1915.

The Department of State, finally, is above all anxious to avoid the necessity of taking any action in Haiti which may ultimately lead to military intervention by the United States in the Haitian Government. It has determined not to insist at this time that the Haitian Government adopt the modifications to the contract of the Banque Nationale de la République d'Haiti and approve immediately the transfer of the amended contract to the new Bank as an integral portion of the program above referred to, but it would be glad to have the Haitian Government signify its willingness to enter into further negotiations regarding these two steps as soon as the suggested program has been carried out.

[No signature indicated]

838.51/964 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, September 10, 1920—noon.

[Received 11 p.m.]

65. Council of State met on 6th September, President has not yet sent message of instruction to them. No evidence at this stage of change of attitude of Government.

BLANCHARD

838.044/4 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, September 20, 1920—5 p.m.

[Received September 21—11:06 p.m.]

67. The President received the Admiral and myself in audience this morning, and finally, after a two hour conference, gave us most formal assurances:

1st. That the nine laws which had been passed and promulgated in violation of the agreement of August 24th, 1918, would be repealed.

2d. That the law on ammunition and firearms, not promulgated, would so remain, until agreement thereon had been reached by the Government and Legation, and then would be modified immediately after promulgation.

3d. That the law to return sequestered property would be promulgated as passed, being modified immediately thereafter according to the original agreement.

4th. That, after agreement on some minor points, the three laws mentioned in my 53, August 20, 11 a.m.³⁴ would be enacted.

Orders have been issued, in view of the above and in accordance with the Admiral's program, to pay to the President, Secretaries of State and Members of the Council of State, their suspended salaries for July and August, [thirty] days being given in which program to be fulfilled.

BLANCHARD

838.00/1749

The Military Representative in Haiti (Knapp) to the Secretary of State

No. 8

PORT AU PRINCE, 23 September, 1920.

[Received September 28.]

SIR: I have the honor to report as follows concerning the mission upon which I have come to Haiti:

³⁴ *Ante*, p. 776.

On Thursday, September ninth, I hoisted my flag on board the U.S.S. *Minnesota* and proceeded to sea, arriving at Port au Prince on Monday, September thirteenth, in the afternoon. I at once went ashore and called upon the Minister, who returned my call the next day. I did not seek an audience with the President at once as I wished to familiarize myself with conditions by consultations with the Minister and treaty officials. When I was ready to have an audience with the President, I heard that he was recovering from an illness and so the request for an audience was delayed until Friday, September seventeenth. The audience was set for the following morning. With the American Minister I called upon the President, accompanied by Captain Hasbrouck of the *Minnesota* and the members of my personal staff. As I expected, I found the President surrounded by his cabinet, and I therefore turned the visit into one of pure formality; but, on leaving, requested the President to give me and the Minister a private audience on Monday, which he did.

On Monday, September twentieth, the Minister and I had an audience of over two hours with the President, at the end of which he assured me that the wishes of the United States Government would be met. I therefore trust that affairs are in a way to being arranged satisfactorily. Upon arrival here I found that the Council of State had been called to meet on the sixth instant, but that it had not yet received the special message of the President outlining the business before it. It, therefore, met only on Mondays, Wednesdays and Fridays for the accomplishment of certain routine business before it, but awaiting the President's special message. The Council of State met yesterday in regular session, but I have not yet heard whether the President's message was sent to it. A rumor from a Haitian source considered ordinarily accurate is to the effect that after the visit of Minister Bailly-Blanchard and myself on Monday there was a meeting of the Cabinet at which it was decided to put through the program of the United States. This is given for what it may be worth.

I enclose a summary of the conversation held with the President. After talking with well informed people here, I was quite prepared for its outcome, as the opinion seemed to be general that the Haitian Government was simply seeking to get out of the bad situation without too much loss of face. There is, of course, still a chance of a hitch in the proceedings on the part of the Haitians; but, on the whole, I think the situation may be regarded with optimism.

In pursuit of the discretion given me, and after discussing the point with the Minister and Mr. McIlhenny, it was considered wise to pay the suspended salaries for the months of July and August.

When I reached here I was under the mistaken impression that the salaries of the Council of State had been paid for the month of July, owing either to a mistake in Washington in deciphering the message of the Minister or to a possible mistake in the paraphrasing of the despatch. I found, however, that no salaries had been paid, either to the Council of State, the President, or the Cabinet, for the month of July. The period of thirty days which was offered to the President for the completion of the immediate program desired by the United States was fixed upon after considerable discussion. It was recognized that the President would need a certain amount of time to put the program through. This may be shorter or longer, according to circumstances, but thirty days was considered a liberal allowance if he went at it with entire good faith; on the other hand, thirty days retains the *status quo* until October twentieth in case the President does not, or is not able to, fulfill his undertaking. This postponement of the necessity for any further action was believed by the Minister and myself to be not in itself undesirable, in view of the conditions in the United States.

I am [etc.]

H. S. KNAPP

[Enclosure]

Memorandum of the Military Representative in Haiti (Knapp) of an Interview with President Dartiguenave

By appointment at a private audience with the President of Haiti, Monday, 20 September 1920, Rear Admiral Knapp explained orally his mission to Haiti to the President, assuring him of the continued earnest desire of the United States Government to cooperate with the Government of Haiti in measures to be taken in accordance with the Treaty between the two countries.

Rear Admiral Knapp spoke of his recent visit to Washington, and of his personal interview with the Secretary of State and the latter's principal assistants, as a result of which he was able to assure the President that, though the personnel of the State Department had been changed, the sentiment animating the personnel with regard to matters pertaining to Haiti was unchanged and was one of the highest altruistic purpose.

Rear Admiral Knapp spoke of the concern felt by the United States in the recent lack of cooperation on the part of Haiti, which seemingly amounts to an attitude of obstruction in certain matters. He referred to the agreement entered into between Haiti and the United States on 24 August, 1918, in accordance with which no laws affecting the Treaty were to be placed in effect by the Haitian Government until accord had been reached through the Ameri-

can Minister, who would express the views of the American Government. He referred also to the later understanding by virtue of which a *modus operandi* was established to insure that the agreement of 24 August 1918 would be observed. He then expressed the concern of the United States over the fact that Haiti had ignored both the agreement of 24 August 1918 and the later understanding of November 1919, and went on to say that the United States Government had noted with pleasure the last paragraph of Minister Barau's communication presented by the Haitian Chargé d'Affaires to the State Department on 23 August 1920,²⁵ and that in consequence he had been instructed to say that the American Government would confidently expect the President of Haiti to see that the laws which have been promulgated in contravention of these arrangements would be at once revoked, and that he was further instructed to say that the American Government would likewise confidently expect that certain other laws would be immediately passed. This was presented as an immediate program. Reference was made to the fact that the terms of the paragraph referred to in Minister Barau's communication were general, but the confident belief was expressed that the President would at this interview give his definite personal assurance that this immediate program would be put through. The President was then told that he might have thirty days in which to put this immediate program through; and that, furthermore, as an earnest of the sincere desire of the United States Government to reach an accord with the Government of Haiti and remove the misunderstanding that seems to have arisen, if the assurance regarding the immediate programme were given by the President, the Minister would authorize the payment of the suspended salaries for the months of July and August, and that when the program was finally concluded in accordance with this assurance, that the order to suspend salaries would be entirely withdrawn.

Rear Admiral Knapp referred to other matters, which the American Government had instructed might be left in abeyance while this immediate program was being undertaken, and which it did not include in the immediate program, referring to the Bank Contract and allied questions. He made it plain, however, that the American Government considered it a matter of principle that the Haitian Government should live up to the obligations which it had undertaken, and that therefore the laws which have already been passed and promulgated in contravention of the agreement of 24 August 1918 must be revoked. He also made it plain that the American Government would expect the Haitian Government to undertake

²⁵ *Ante*, p. 780.

the passage of necessary measures in connection with the Bank Contract as soon as the ground should have been cleared by accomplishment of the immediate program placed before the President.

Rear Admiral Knapp pointed out to the President that the United States considered him, under the very peculiar circumstances existing, as the Government of Haiti. He referred to the support given to the President from the first day of his incumbency; to the good offices of the United States in the revision of the constitution, a special feature of which gave the President a term of seven years in office, although in future the term of office would be four years; to the further special provision of the Constitution by which a legislative body had been created which was not elected but was appointed by the President and depended upon his sole will. He also mentioned the fact that the President's Cabinet was appointed by the President without the necessity of having the advice and consent of the Senate, as is the case in the United States. Under all of these circumstances, some of which are temporary and exceptional, the President of Haiti, at the present moment and so long as the constitutional term of the Conseil d'Etat shall last, occupies a position of extraordinary personal power. The President was reminded that the United States Government was not unaware of his embarrassments; but, at the same time, that it was also fully aware of these extraordinary powers, and as a consequence it looks to him to carry out the necessary measures of cooperation under the Treaty as being himself the Government.

Rear Admiral Knapp referred to the confidence that had been placed in the President in the early days of his incumbency and until recently, but he also very frankly said that that confidence had been greatly shaken by the events of the past few months, and he informed the President that he could reestablish the confidence of the American Government by promptly taking in hand the measures that it desired and that had been indicated as the program for immediate execution. The President gave his formal assurance to the Minister and Rear Admiral Knapp that he would put through the program which has been referred to as immediate,—that is, the repeal of the laws which, while not necessarily objectionable in themselves, had been passed and promulgated in contravention of the agreement of 24 August 1918, and the passage of the laws which had been indicated as immediately necessary by the American Government in its recent *note verbale*.⁸⁰ This assurance of the President was repeatedly made, and he said that the payment of the July and August salaries would greatly facilitate his task.

⁸⁰ See telegram no. 64, Aug. 12, to the Minister in Haiti, p. 774.

Much conversation took place during the interview regarding certain of the laws which had been passed or were to be passed. Endeavor was made to have a perfectly clear understanding that the United States Government insists that the undertaking of the Haitian Government duly entered into must be observed with regard to the passage of laws. In connection with the laws to be passed as part of the immediate program, the President said that the Haitian Government would like to make certain observations, to which of course no exception could be taken, as that distinctly of itself is in accord with the agreement of 24 August 1918. No promises, however, were made that these observations would necessarily be accepted by the United States, but the thirty days of grace which has been granted would give ample time for their presentation and discussion.

A suggestion had been made that the President be required to give, in a written document over his signature, the assurance that he did give orally. This matter was debated in all its aspects by the Minister and Rear Admiral Knapp before the interview and they were agreed, at the end of their discussions on this matter as they were at the beginning, that such a requirement would be offensive to the dignity of the President of Haiti, and would be much more apt to do harm than good, and they also agreed that an oral assurance given by the President in the presence of both of them was as much as could possibly be expected. No reference was therefore made to any written assurance, and the matter rests as has been explained above, upon the oral assurance given by the President, which was however reiterated several times. The Minister asked the President if he gave this formal assurance as the President of Haiti, to which the President replied in the affirmative.

Later in the day, the order was given by the Minister to the Financial Adviser to make the payments of salaries for the months of July and August, and the matters are now in as advanced a state as is practicable until the expiration of the thirty days given for the execution of the program, or until the program shall have been executed within a shorter period of time.

The underlying motive of the action taken by the Minister and Rear Admiral Knapp was to save the susceptibilities of the Haitians to the greatest possible degree, while at the same time making perfectly clear the fact that the United States Government insisted upon a strict compliance with the terms of the agreement made by the Haitian Government, and to which its good name was pledged.

There is, of course, a possibility of a hitch in the proceedings if the Cabinet and the Council of State adopt an obstructive attitude that the President may not be able to control. This is to be feared, perhaps, but until such an attitude becomes manifest, there seems to

be nothing to be done. If it does become manifest, the President will be informed that, if necessary, he must surround himself with a Cabinet and a Council of State that will keep faith with the United States. As the Council of State is now in session, and is meeting from day to day awaiting a message from the President, it should not be a long time before some indication becomes manifest of the way in which the matter will eventuate.

H. S. KNAPP

711.88/145½

The Acting Secretary of State to the Haitian Chargé (Blanchet)

WASHINGTON, September 27, 1920.

SIR: The Department has received your note of September 8, last,³⁹ transmitting in accordance with instructions received from your Government a statement of the Government of Haiti regarding the agreement of August 24, 1918, which provides for the submission by the Government of Haiti of all proposed legislation bearing upon any of the objects of the Treaty of September 16, 1915, to the American Legation.

The statement transmitted with the note under acknowledgment quotes the notes submitted by the American Minister at Port au Prince to the Haitian Minister of Foreign Affairs under date of June 25, 1918,⁴⁰ and relates the facts which caused the sending of the *note verbale* addressed by the Haitian Minister of Foreign Affairs to the American Minister at Port au Prince under date of August 24, 1918. The Department of State concurs in the view expressed by the Government of Haiti that the agreement entered into by means of the latter *note verbale* constitutes the agreement of August 24, 1918, so often referred to in correspondence between the American Legation at Port au Prince and the Haitian Minister of Foreign Affairs.

The Department has further noted the statement of the Haitian Government that by virtue of this agreement of August 24, 1918, the Government of Haiti has always submitted to the diplomatic representative of the United States in Haiti for the information of this Government, and in case of necessity for a discussion between the two Governments, all legislation bearing upon any of the objects of the Treaty before transmission to the legislative body of the Haitian Republic.

The Department is, however, surprised to find no mention made in the communication under acknowledgment of the further negotia-

³⁹ Not printed.

⁴⁰ See telegram of June 22, 1918, to the Minister in Haiti, *Foreign Relations*, 1919, vol. II, p. 304; the note was delivered to the President of Haiti.

tions between the American Legation in Haiti and the Haitian Government regarding the manner in which the original agreement of August 24, 1918, should be carried out. The Haitian Government will doubtless recall that difficulties arose as to the interpretation of this agreement, and that the American Legation found that the Haitian Government did not coincide in the opinion of the Legation that, in order to attain the aims of the Treaty and in order to make close cooperation between the two Governments practicable, it was paramount that all proposed legislation of whatever character be communicated to the Legation before submission to the legislative body. The American Minister moreover officially informed the Haitian Minister of Foreign Affairs that in his opinion, the agreement of August 24, 1918, covered all proposed legislation and that if any project of law communicated to the Legation in accordance with this agreement did not bear upon any of the objects of the Treaty, it would immediately be returned by the American Legation to the Haitian Minister of Foreign Affairs with a statement that the Legation saw no objection to it, while if the project were not contrary to the terms of the Treaty, but contained some objectionable features, in the opinion of the American Legation, the American Minister and the Haitian Minister of Foreign [Affairs] could doubtless come to an understanding for their removal.

In order to avoid future difficulties caused by the passage of laws which had not been communicated to the American Legation, the American Minister in the month of November, 1918, had several interviews with the President of Haiti as a result of which the President agreed that upon the receipt of any law passed by the legislative body and submitted to the President for action, the President himself would communicate such law to the Legation before promulgation. The President gave to the American Minister at that time the most formal assurances that there would be no recurrence of difficulties occasioned by the passage of laws which had not been previously submitted to the American Legation, and to this end after conferences with his Cabinet and the members of the Council of State, officially announced to the American Legation that the following *modus operandi* would be followed:

1. The Government to be in accord with the Conseil d'État in its advisory capacity upon any project of law before its submission to the Legation.

2. If the Legation has no objection to the proposed law it will be sent to the Conseil d'État to be passed, as agreed.

3. Should the Legation find objections, negotiations towards an understanding will be entered into with the Government, and the agreement reached communicated to the Conseil d'État in its advisory capacity, for their accord.

The Government, the Conseil d'État and the Legation, being in accord, the project of law will then be sent to the Conseil d'État in its legislative capacity to be passed as agreed.

4. To guard against any possible errors, the law after its passage by the Legislative Body and its submission to the President for his action, will be sent by him in communication to the Representative of the United States, before promulgation.

In view of these circumstances, the Department of State is of the opinion that the agreement of August 24, 1918, has been interpreted by both the Government of the United States and the Government of Haiti as covering all legislation and will be glad to receive assurances from the Government of Haiti that it concurs in the opinion expressed by the Department of State.

Accept [etc.]

NORMAN H. DAVIS

838.51/981 : Telegram

The Military Representative in Haiti (Knapp) to the Secretary of State and the Secretary of the Navy

[Paraphrase]

U.S.S. "MINNESOTA," *October 2, 1920.*

[Received October 4.]

0101. Have appointment tomorrow with Moravia,⁴¹ with whom I exchanged calls today. Unless otherwise directed, American Minister and I agree that no mandate should be issued for pay of Haitian President, Secretaries of State, and Councilors of State for September until required program is put through. None has been issued as yet. No message in the premises has been sent to Council of State even yet, although 10 days have been allowed to pass, which does not seem to indicate a very earnest spirit of accommodation. No promise to pay was made in conversation of September 20, except that the order to suspend salaries would be withdrawn when program entirely accomplished. No other news. 1850.

H. S. KNAPP

838.51/980

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

No. 352

WASHINGTON, *October 4, 1920.*

SIR: You are informed that the Department has recently concluded an arrangement with the War Department whereby the

⁴¹ Charles Moravia, Haitian Minister accredited to the United States.

Bureau of Insular Affairs is to undertake the immediate supervision and control of the Haitian Customs Receivership and the auditing of its accounts on behalf of the United States, in a manner similar to the supervision and control exercised by that Bureau over the Dominican Customs Receivership.

For your further information, a copy of the Department's letter to the Secretary of War dated September 21, 1920, and of the reply of the Secretary of War dated September 24, 1920 is enclosed herein.⁴²

General McIntyre, the Chief of the Bureau of Insular Affairs, is leaving on his annual inspection trip of the Dominican Customs Receivership on the 7th instant and pursuant to the arrangement made with the War Department, he will include Haiti in his itinerary, going direct to Port au Prince. It is the intention of General McIntyre, for the information of the Bureau of Insular Affairs, to investigate the system whereby the Haitian Customs are at present administered, and to draw up a report upon the administration of Customs, including such recommendations for changes in the present system as may in his opinion, and in the opinion of the Bureau of Insular Affairs, be deemed necessary. The Department is in particular favorably disposed to recommend that the Bureau of Insular Affairs provide for the formation of a Customs Board in Port au Prince similar to that now functioning in Santo Domingo, the duty of such a Board to be to pass upon protests of importers against the rulings of the Receiver General.

The Department has been in no way dissatisfied with the most excellent administration of the Haitian Customs by the present Receiver General. It believes, however, that it is advisable, both in the interest of the efficiency of the Customs service and in the interest of the Receiver General himself, that the Customs Receivership in Haiti be subject as it is in Santo Domingo to the direct supervision of the Bureau of Insular Affairs. The Department trusts that General McIntyre will be rendered every facility for inspection and observation of the present working of the Customs administration during his approaching visit to Haiti, and desires that the Legation and the Treaty Officials assist and cooperate with him in every way possible.

You will please transmit copies of this despatch and of its enclosures to the General Receiver and the Financial Advisor for their information and guidance.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

⁴² Neither printed.

838.51/981: Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, October 8, 1920—noon.

88. Admiral Knapp's telegram 1850.

The Department regrets exceedingly to learn that suspension of salaries of members of the Government still continues. The Department does not consider that Article 5, of the Treaty, in view of the fact that the revenues collected by the General Receiver are now sufficient to meet all expenses, can be construed as implying that this Government has the right to withhold the current expenses of the Haitian Government. It is believed that no useful purpose will be accomplished by the suspension of salaries and that September salaries should be paid immediately if they have been withheld.

Cable immediately the minor points still to be agreed upon referred to in Paragraph 4 of your No. 67, September 20, 5 p.m.⁴¹ If agreement upon these points has been reached and required program has been formally accepted by the President, you may inquire of the President the reason for the delay in the submission of this program to the Council of State by executive message. You may further inform him that the delay in the sending of this message is causing grave anxiety to this Government since it had been led to believe that the Haitian Government was desirous of manifesting its intention to cooperate once more cordially with the United States in the carrying out of the objects of the Treaty. You may say further that this Government has given the measures embodied in this program its most careful consideration and that it believes that the program suggested is essential for the best interests of the Haitian Republic.

DAVIS

838.51/992: Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, October 11, 1920—4 p.m.

[Received October 12—11 a.m.]

73. Department's 88, October 8, noon. Up to receipt of your message this morning the President had not laid business before Council of State, a delay of three weeks since definite assurance given to put program through. No promise of further payment of salary beyond August was directed until program fulfilled when order of suspen-

⁴¹ *Ante*, p. 800.

sion would be entirely withdrawn. This was thoroughly understood by the President. Since receipt of your cable a copy, not official, of the President's message to the Council of State sent this day has been obtained and is forwarded in the Navy cipher to save time.⁴² This is the first public act towards taking the steps indicated in Department's note of August 27th, 1920,⁴³ to the Haitian Chargé d'Affaires. Following the Department's instructions in its number 88, I have accordingly directed the Financial Adviser to authorize the immediate payment of salaries for September. The minor points of the three laws referred to in paragraph 4 of my 67, September 20, 5 p.m. were to be communicated by the President. I still await their receipt.

BLANCHARD

838.51/992: Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, October 14, 1920—5 p.m.

93. Your 73, October 11, 4 p.m.

Apparently you have misunderstood Department's wishes as expressed in series of telegrams regarding suspension of salaries of members of the Government. You are instructed to direct definite and final withdrawal of the order suspending salaries so that in the event program be not carried out by Haitian Government by October 20, or even well into November, the subsequent carrying out of the program by the Haitian Government will not in any sense appear to have been as a result of the coercive effect of the suspension order.⁴⁴

DAVIS

838.51/995

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

No. 357

WASHINGTON, October 16, 1920.

SIR: Reference is made to your telegram Number 75 of October 13, 2 p.m., 1920,⁴⁵ in which you refer to that sentence in the Department's telegram Number 88 of October 8, 12 noon, 1920, which reads as follows:

"The Department does not consider that Article V of the Treaty, in view of the fact that the revenues collected by the General

⁴² Telegram not printed.

⁴³ *Ante*, p. 782.

⁴⁴ The Minister replied, Oct. 19, "Instructions complied with." (File no. 838.51/1009.)

⁴⁵ Not printed.

Receiver are now sufficient to meet all expenses, can be construed as implying that this Government has the right to withhold the current expenses of the Haitian Government."

In your telegram you report that if the customs revenues collected by the Receiver General and affected by the laws granting pledges to guarantee the payment of the public debt, are allocated in compliance with Article V there would be available for July, August and September, 1920, the respective amounts of \$6,125.39, \$5,277.28 and \$796.22 to be applied to the current expenses of the Government, which average \$200,000 per month.

The Department desires to call your attention to the fact that Article V of the Treaty merely requires the General Receiver to pay the interest and sinking fund of the public debt of the Republic of Haiti, after the salaries and allowances of the General Receiver and Financial Advisor and of their assistants are paid. There is nothing in the Treaty which expressly requires the General Receiver to segregate the entire pledged portion of the revenues, provided the interest and amortization of the public debt is paid. According to the figures contained in the monthly reports of the General Receiver for the months of March and April, 1920, the excess of revenues collected over expenditures made under the Treaty was \$272,310.04 and \$239,211.24, respectively. The sum of \$200,000 a month segregated from the customs revenues is, apparently, judging from your telegram dated [October 13, 1920, 2 p.m.] considered sufficient by the Financial Advisor to pay the interest and sinking fund of the public debt of the Republic of Haiti, as required by Article V. If the debt service is, therefore, faithfully performed the Treaty would not seem to require the Receiver General to segregate from the revenues pledged or "affected" a larger amount than is necessary to pay the interest and amortization.

Assuming, however, that the General Receiver should segregate all that part of the revenues that is pledged to the payment of the debt service, this would not authorize him or the Financial Advisor to select the salaries of the President and Members of the Council of State as the ones which should not be paid from the small remaining part of the revenues. At the most, it would authorize a proportional reduction in the salaries of those officials.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

888.044/6: Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, October 18, 1920—6 p.m.

94. Your 74, October 12, 5 p.m., Department's 82, September 27, 6 p.m., 89, October 11, 6 p.m.⁴⁶ Have you informed Haitian Government officially of any modifications desired in the eleven laws or projects violating agreement of August 24, 1918, mentioned in your August 20, 11 a.m.?⁴⁷ If so, cable Department immediately substance of modifications suggested. If not, cable Department immediately what specific modifications, if any, are recommended by you in the case of each law or project involved. Department will thereupon consider your recommendations and instruct you in accordance with its views. In the meantime, however, you will make it perfectly clear to the Haitian Government in a note, if you have not already done so, that in view of the willingness now shown by the Haitian Government to submit the eleven measures in question to this Government for its approval, this Government will not insist upon their repeal or withdrawal *per se*, but will insist only upon such modification of these measures by the Haitian Government as this Government may have indicated or will at an early date indicate to that Government as the case may be.

DAVIS

711.38/146

The Haitian Chargé (Blanchet) to the Secretary of State[Translation ⁴⁸]

The Chargé d'Affaires *ad interim* of Haiti presents his compliments to His Excellency the Secretary of State and has the honor to confirm to him the following communication which he recently made to the State Department in pursuance of instructions from his Government.

Referring to the note of the State Department of September 27 last ⁴⁹ in regard to the interpretation of the agreement of August 24, 1918, on the duty of the Haitian Government to communicate to the Legation of the United States, for the information of the Amer-

⁴⁶ None printed.⁴⁷ *Ante*, p. 776.⁴⁸ File translation revised.⁴⁹ *Ante*, p. 806.

ican Government and, if necessary, for the purpose of a discussion between the two Governments, any proposed legislation bearing on one of the objects of the treaty of 1915, before such legislation is submitted to the legislative body, the Haitian Government feels obliged to declare that no *modus operandi* was concluded between it and the Legation of the United States in November 1918, and that there is no agreement in existence subsequent to the aforesaid one of August 24, 1918.

On the occasion of the passage of the budget of 1919-1920, an interview took place in the National Palace, about August or September of last year, between the President of the Republic, assisted by the Cabinet officers, and the United States Minister, assisted by the Financial Adviser.

With a view to preventing the enactment by the Council of State of amendments to bills on which an agreement had previously been reached between the Government and the American Legation, the United States Minister suggested the following procedure: That the bills should first be submitted to the Council of State in its administrative capacity, that the amendments recommended by that body should be examined anew, and that as soon as the final agreement had been reached among the three parties (Chief Executive, American Legation, and Council of State), the bills should be submitted to said Council in its legislative capacity, which would prevent any new amendments.

The Government promised to examine the practicability of this procedure. No action has been taken on it since.

Under these circumstances, the Haitian Government considers that it would be advisable, in order to obviate any difficulty in connection with the interpretation and enforcement of the said agreement of August 24, 1918, for the State Department to determine its scope and specify, together with the Haitian Government, the points of the treaty contemplated in the agreement.

The opinion of the Haitian Government is that the bills comprised within the terms of the agreement of August 24, 1918, are those which, under the very terms of the treaty of 1915, require a previous understanding between the two Governments, that is, those which involve articles 8, 9, 11, and 13. As regards all other bills which bear upon the treaty owing to their economic or financial character, the Financial Adviser, who is specially devoted to this service, is the one to whom the Department of Finance should communicate them for any necessary recommendations.

Furthermore, the Haitian Government thinks that whenever it may have to communicate proposed legislation to the United States

Legation for the purposes indicated in said agreement, only those provisions should be so communicated which bear upon one of the aforesaid articles of the treaty, the communication of the other provisions being unnecessary.

Nevertheless, as the Haitian Government is sincerely desirous of avoiding any violation of the terms of the treaty, it will make it its duty to transmit to the United States Legation all bills whatsoever which imply an interpretation of one of the articles of the treaty of 1915.

The Haitian Government sincerely hopes that the State Department and itself can agree on this interpretation and this mode of execution, which, while insuring the cooperation of the contracting parties, will guarantee the fulfillment of the purposes of the treaty of 1915.

Washington, November 1, 1920.

A. BLANCHET

838.51/1020: Telegram

The Military Representative in Haiti (Knapp) to the Secretary of the Navy (Daniels) and the Secretary of State

[Paraphrase]

U.S.S. "NEW HAMPSHIRE," November 12, 1920—5:45 a.m.

[Received November 15.]

0012. There has been nothing to report for last two days. The Receiver General requested today trial by provost court of a Haitian customs employee for theft and smuggling. Informed him approval could not be given without reference to Navy and State Departments. I am told that before the treaty, when customs were administered by naval officers of occupation, such cases were tried before provost courts; however, the advent of the treaty appears to me to change conditions. I have consulted with Russell, whose opinion substantiates mine. On the other hand, there appears to be a real danger of miscarriage of justice if tried in an Haitian court, which will demoralize the customs service, for whose administration the United States is responsible. Should such demoralization ensue, the United States will have failed to that extent, even though the fault rest with Haiti. The matter is one of policy to be settled in Washington. I request that Department of State and Navy Department confer regarding this policy and that I be instructed as soon as possible. 1500.

[KNAPP]

838.51/1021 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, November 17, 1920—11 a.m.

105. Your 88, November 12, 5 p.m.⁵⁰

Department finds no authority under terms of Treaty to try by provost court Haitian customs official held for theft and smuggling. To remove case from jurisdiction of civil courts would constitute in effect a denial of sovereignty of Haitian Government and afford a genuine cause of complaint.

COLBY

FINANCIAL AFFAIRS

Proposed Modifications in the Charter of the New National Bank; Reluctance of the Haitian Government to Accept the Modifications⁵¹

838.516/119

Memorandum of the Office of the Foreign Trade Adviser, Department of State

[WASHINGTON.] February 4, 1920.

A conference was held in the Latin American Division of the Department of State on February 3, 1920, to discuss modifications which should be made in the present concession of the National Bank of Haiti in the event that the stock and the assets of this Bank should be purchased by the National City Bank of New York.

There were present Mr. Lay, Acting Foreign Trade Adviser of the Department of State, Dr. Rowe, Chief of the Division of Latin American Affairs, Mr. McIlhenny, Financial Adviser to Haiti, Mr. John H. Allen, Vice President of the National City Bank of New York, and Mr. Dunn and Mr. Munro of the Department of State.

At this conference it was agreed that the following modifications should be made in order that the proposed transactions might meet with the approval of the Department of State and of the Haitian Government.

[Annex]

Modifications to be Made in the Concession to the National Bank of Haiti⁵²

I. The Commissions collected by the National Bank for the treasury service, as provided in Article 17 of the Concession and Article 4 of the Agreement of July 10, 1916, shall be abolished.

⁵⁰ Not printed.⁵¹ See also the communication of July 21, from the Financial Adviser, p. 762.⁵² This agreement was presumably signed Feb. 6, 1920.

II. In lieu of these commissions, the Bank shall receive payment on account of the treasury service at the following rate: When the total receipts of the Government in a given fiscal year amount to six million dollars, the Bank shall receive a commission of sixty-eight thousand dollars. For each additional one million dollars of the Government's income the bank shall receive an additional ten thousand dollars, and when the income of the Government is less than six million dollars, the commission received by the Bank shall be decreased at the rate of ten thousand dollars for each million dollars by which the Government's income is less than six million dollars. In no fiscal year, however, shall the payment to the Bank on account of the treasury service exceed the sum of one hundred thousand dollars.

III. The National Bank of Haiti agrees to allow the Government interest on its credit balances, whether in gold or in gourdes, at the current rate allowed by said Bank on demand deposits. Should it happen at any time that the Bank is unable to allow interest on gold deposits, it shall transfer the funds to New York, allowing interest thereon at the rate allowed by the National City Bank of New York for foreign demand deposits. The cost of transferring the gold to and from New York, if any, shall be for the account of the Government.

IV. When the Government shall decide to issue through the Bank new fractional currency, as provided in Article 12 of the Concession, the profits arising from the coinage of this currency shall be credited to the Government by the Bank. These profits shall be deposited with the Bank in a reserve fund in legal tender money of the United States of America, to be held in the vaults of the Bank, and to be used only for the purpose of redeeming the fractional currency of the new issue in American money on demand. This fund shall at all times be equal to thirty-three and one third per cent of the total amount of fractional currency of the new issue in circulation, and the Government shall make such additions to the fund from time to time as may be necessary to maintain this proportion. If the profits arising from the coinage of the fractional currency should increase this fund to more than thirty-three and one third per cent of the amount of fractional currency of the new

²³ *Contd.* An unsigned verbatim copy of the agreement, stamped May 28, 1920 (file no. 838.516/135), has appended after article IX the following:

ADDITIONAL AMENDMENT SUBSEQUENTLY AGREED UPON

"After the expiration of the period set by the currency reform agreement for the retirement of the Government paper money, the Government will adopt such regulations affecting the importation of foreign currency as may appear necessary to safeguard the currency system of the Republic of Haiti. The Financial Adviser will consult with the Bank upon such measures as may be deemed necessary."

issue in circulation, the excess shall continue to form part of the reserve fund: but it may be used by the Bank like other deposits of Government funds and the Bank shall pay interest to the Government upon this excess as upon other Government deposits. If the profits from the coinage of fractional currency should increase the reserve fund to more than fifty per cent of the total amount of fractional currency of the new issue in circulation, the amount by which the reserve fund exceeds fifty per cent of the total amount of fractional currency of the new issue in circulation shall be paid by the Bank to the Government and may be used by the Government for other purposes.

V. The Bank shall at all times exchange its own notes for fractional currency of the new issue and the new fractional currency for its own notes on demand when presented in amounts of not less than fifty gourdes and not more than one thousand gourdes.

VI. The Bank shall at no time invest a sum larger than its paid-up capital stock and surplus in mortgages or in loans having a longer maturity than nine months.

VII. The Financial Adviser shall at all times have the right to inspect all of the operations of the Bank and to call for such reports from the Bank as he may deem necessary.

VIII. If the stock of the National Bank of Haiti should at any time be sold by the National City Bank, the National City Bank agrees that the Government of Haiti shall have a preferential right to purchase the stock of the National Bank of Haiti at the same price which may be offered by any other *bona fide* purchaser.

IX. The above provisions supercede all contrary provisions in the contract, and it is understood that the prohibitions of Article 13 of the contract relating to the issue by the Government of fiduciary and nickel money shall not apply to fractional currency issued in accordance with the provisions herein contained.

FLEURY FÉQUIÈRE ⁵⁵

ad referendum

JOHN A. McILHENNY

Financial Adviser

CH. MORAVIA ⁵⁶

ad referendum

JULIUS G. LAY

Acting Foreign Trade Advisor

888.516/121a: Telegram

The Acting Secretary of State to the Chargé in Haiti (Belden)

WASHINGTON, March 13, 1920—5 p.m.

28. Before Féquière left for Haiti certain changes in the charter of the National Banque were suggested at a conference held in the

⁵⁵ Haitian Minister of Finance.

⁵⁶ Haitian Minister at Washington.

Department at which were present Féquière and a representative of the National City Bank of New York. The Department was satisfied that these changes would be greatly to the advantage of the Haitian Government and the Haitian Minister here cabled the changes to his Government.

As no reply has been received, I suggest that you call upon the President and urge upon him the immediate and formal approval by himself and his Council of Ministers of the suggested changes as cabled by Minister Moravia.

In view of fact that best interests of Haiti clearly subserved in revision of charter, endeavor to secure approval without further delay.

POLK

838.51/124 : Telegram

The Chargé in Haiti (Belden) to the Secretary of State

PORT AU PRINCE, March 26, 1920—noon.

[Received March 27—10:20 a.m.]

23. My number 20, March 20, 1 p.m.⁵⁷ President informs me that he has sent to Financial Adviser two memoranda relative to National Bank and to article 15 of the contract of retraits⁵⁸ explaining certain opinions of Haitian Government. Request that when Financial Adviser receives memoranda, Legation be advised of his reply.

President states that approval revision of the original bank concession would necessarily have to be submitted to the legislative body which meets in April.

President does not approve of the prohibition of the importation of American gold.

BELDEN

838.516/121a : Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, May 13, 1920—6 p.m.

44. Department's telegram March 13, 5 p.m. You are directed to place before the President the following facts. Modifications of bank charter were fully discussed at Washington in presence of Féquière. The sole object in view was to secure modifications in the interest of the people of Haiti. National City Bank generously

⁵⁷ Not printed.

⁵⁸ For papers relating to the contract of retraits, see pp. 826 ff.

relinquished privileges of great value and the conclusions reached were agreed to by Minister Féquière as well as by this Government. The changes so proposed relieve Haiti of heavy burdens and any further attempt to postpone final approval will gravely endanger the entire situation and react most unfavorably on the interests of Haiti.

In view of these facts you are directed to say to the President that any further postponement of approval by the Government and ratification by the Council of State of the transfer of contract as modified and sale of bank will create a most unfavorable impression in Washington and cannot but create a feeling that this Government is not receiving the cooperation of the Government of Haiti in measures intended exclusively for the welfare of the people of that Republic. The modifications of the bank charter now proposed by the Haitian Government⁵⁹ have been carefully considered by the Department and cannot be approved. The Department relies on the cooperation of the Government of Haiti in bringing about the contemplated important reforms and, in view of the urgency of the situation, expects a favorable reply not later than May 24.

POLK

838.516/133 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, May 21, 1920—2 p.m.

[Received August 24—1:44 a.m.]

34. Department's 44, dated May 13, 6 p.m. received May 19th, laid before President this morning. President states there is no difficulty whatsoever, delay not attributed to Haitian Government but to failure of National City Company to provide its representatives with full powers. President explained fully whole matter to Farnham as to the procedure to be followed before ratification Council of State, further stating representatives of National City Company and Bank of Haiti should have full power before official negotiations could be carried on. Farnham, it is understood, at once cabled for full powers for self and Scarpa, meanwhile it was agreed that the matter would be unofficially considered. The Haitian Government has tentatively accepted all propositions made except two, which they desire modified. In accordance with Department's above cable, these have been disapproved. Haitian Minister, Paris, has cabled full powers of Bank National Republic Haiti to Scarpa. Deposited Legation, will be forwarded first occasion. Haitian Government

⁵⁹ Received from the Haitian Legation May 5; not printed.

awaits full powers representative National City Company to conclude matter. President leaves Sunday for the North to be absent four days.

BLANCHARD

838.516/136 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, June 12, 1920—9 a.m.

[Received June 14—11:14 p.m.]

37. Department's 48, June 9, 5 p.m.⁶⁰ From McIlhenny:

Haitian Government accepts modification of charter. Is prepared to approve transfer of charter to new corporation upon appearance of some one qualified in person or by proxy to sign for the National City Bank. Manager of bank has cabled this to Farnham and urged powers be forwarded but to date no answer received.

BLANCHARD

838.516/142

The National City Bank of New York to the Secretary of State

NEW YORK, July 16, 1920.

[Received July 19 (?).]

SIR: Referring to the negotiations for the purchase by this Institution of the Banque Nationale de la Republique d'Haiti and to the Contract existing between the Government of Haiti and the Banque Nationale de la Republique d'Haiti, and to the consent of the Government of Haiti to the transfer of said Contract to a new bank of identical name and of Haitian nationality, we wish to advise you that in response to a cable which we sent to our Representative in Haiti on the 12th of July asking to be informed of the reason for the continued delay in receiving from the Haitian Government its consent to the transfer, we have just received his cabled answer, copy of which is enclosed herewith for your information.⁶⁰

You will recall that some time ago, in the discussions which occurred in February last at the State Department in Washington concerning certain modifications of the Contract between the Government of Haiti and the Banque Nationale de la Republique d'Haiti, we, as prospective purchasers of the Banque Nationale de la Republique d'Haiti, were requested by the State Department on behalf of the Haitian people, to agree to certain modifications of the Bank

⁶⁰ Not printed.

Contract which you felt would be in the interests of Haiti and its people, and we did so agree, with the understanding that no further changes in the Contract would be requested of us.

It would appear from the cable (copy enclosed) received today by us that the Haitian Government is proposing additional amendments with the result of further delaying its consent to the transfer. This delay is very prejudicial to all interests, particularly in respect of our carrying out our obligations to the French owners of the Bank and in the prompt establishment in the Bank and its branches in Haiti of improved methods in the conduct of its business.

To overcome this situation we wish to propose to you that we proceed forthwith to conclude the final details of the purchase of the Banque Nationale de la Republique d'Haiti, taking over the Contract between that Bank and the Government of Haiti in its present form with the understanding that so soon as the consent of the Government of Haiti is obtained to the transfer of the Contract to the new Bank, we will simultaneously accept and consider operative as a part of the Contract, the modifications of the Contract to which we agreed in the conferences held in your Department in Washington February and March last. This arrangement would permit us to deal with certain embarrassments in completing the purchase of the Bank caused by the present delay of the approval of the Government of Haiti.

Will you be good enough, Mr. Secretary, to give our suggestion your consideration and if it meets with your approval we will be glad to be so informed at your early convenience in order that we may promptly take the steps with the French owners to complete the purchase of the Banque.

We are [etc.]

THE NATIONAL CITY BANK OF NEW YORK
By R. L. FARNHAM, *Vice President*

838.516/138 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, *July 16, 1920—11 a.m.*

[Received 5:44 p.m.]

39. My 37, June 12, 9 a.m. From McIlhenny:

Since my cable, attitude of Haitian Government has changed. Now refuses to accept modifications of charter.⁶² For this and other reasons I have temporarily suspended discussion of budget.

BLANCHARD

⁶² See letter of the Financial Adviser of Haiti to the Chief of the Division of Latin American Affairs, Department of State, July 21, p. 762.

838.516/144

*Memorandum of the Division of Latin American Affairs, Department
of State*

[WASHINGTON,] July 23, 1920.

Minutes of a conference held in the Latin American Division on
Friday, July 23, at 11 a.m.

Present: Mr. R. L. Farnham, Doctor Rowe and Mr. Welles.⁶³

Doctor Rowe handed to Mr. Farnham a letter ⁶⁴ replying to Mr. Farnham's letter of July 16 addressed to him by Mr. Davis, Under Secretary of State, approving the proposal of The National City Bank to conclude the final details of the purchase of the Banque Nationale de la Republique d'Haiti, taking over the contract between that Bank and the Government of Haiti in the form in which it now stands, with the understanding that The National City Bank, so soon as the Haitian Government consents to the transfer of the contract to the new bank, will accept and consider operative as a part of the contract the modifications of that contract already agreed upon by the Department and The National City Bank.

In handing Mr. Farnham this letter Doctor Rowe stated that the Department in giving its approval to the proposal of The National City Bank does so with the understanding that if it should subsequently develop in further negotiations with the Government of Haiti that further modifications of a subordinate character suggested by that Government are acceptable, and do not materially alter the net results of the contract once the modifications already agreed upon are included in it, the insertion of such general and additional modifications in the contract will not relieve the Bank of the obligation to consider operative the major modifications agreed upon by the Department of State and the Bank.

Mr. Farnham stated that he concur[r]ed in this understanding.

838.516/138 : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, July 24, 1920—6 p.m.

55. Your July 16, 11 a.m. For McIlhenny.

In view of continued delay in obtaining consent of Haitian Government to transfer of contract as amended to new bank, the Department has been requested by the National City Bank to agree to its

⁶³ Sumner Welles, Assistant Chief of the Division of Latin American Affairs.

⁶⁴ Not printed.

proposal to proceed immediately to conclude final details of purchase of National Haitian Bank, taking over contract as it now stands, on condition that so soon as the Haitian Government shall agree to the transfer of contract to new bank, the City Bank will consider operative the modifications agreed upon with the Department.

The Department has determined to agree to this proposal with the understanding, however, that if subsequently modifications of a subordinate character, considered acceptable by Department, are proposed by Haitian Government, the City Bank will not be relieved of its obligation to place in operation major modifications already agreed upon.

You may advise Haitian Government of so much of foregoing as you deem advisable and impress upon them that it is far more desirable in the interests of the Haitian people that the Government give its consent at once to modifications of contract and agree to its transfer to new bank, than that the old contract be taken over by the City Bank in the form in which it now stands when the purchase of National Haitian Bank is concluded.

COLBY

838.516/140 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, July 28, 1920—5 p.m.

[Received July 29—11:20 p.m.]

42. From McIlhenny:

I urgently and earnestly request that the modifications [*sic*] proposed in the Department's cable 55, July 24th, 6 p.m., be not taken. A modification of the position taken in the negotiations with the Haitian Government would be looked upon by that Government as a weakening of the American policy and would destroy the force of the American administration in the island. It is absolutely necessary that the modifications agreed to between the American Government and the bank should be accepted by the Haitian Government. [The Haitian Government] absolutely refuses to put into effect article 15 of the contract of the retrait, to accept article 10 of the modifications of the bank charter agreed to by American Government and City Bank, to enact land law approved by State Department; has offered a law in spite of protest and in violation of the treaty, making the ownership of real property by Haitians [*non-Haitians?*] practically impossible and a law turning back all sequestered property to the Germans. Other unsound and im-

proper laws have been passed without submission to Legation.⁶⁵ The whole attitude of the Haitian Government is so aggressive, antagonistic at this time that any modification of our position would be detrimental to American interest and render impossible a sound administration of Haitian affairs. By reason of the above I have suspended all discussion of the budget.

The above views are fully concurred in by Colonel Russell⁶⁶ and myself and we are taking the necessary steps to bring about a change of attitude and proper action by the Haitian Government.

BLANCHARD

838.516/140: Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, August 5, 1920—6 p.m.

59. Your July 28, 5 p.m., and July 29, 5 p.m.⁶⁷

For McIlhenny. Department's approval of proposal of National City Bank to purchase National Haitian Bank, taking over contract as it stands, was due to the approaching expiration of option. Department does not regard such approval as in any way weakening American policy in Haiti, and does not consider that it can now recede from approval of purchase. Such approval in no way implies that Department is less insistent that modifications already agreed upon be accepted by Haitian Government before transfer of contract to new Bank.

Haitian Chargé d'Affaires, by instruction of his Government, has protested to the Department against your action in delaying consideration of budget, due to your refusal to resume discussions until Haitian Government agreed to modifications of bank charter. Haitian Government likewise stated that British, French and Italian Legations as well as American companies in Haiti, have protested against prohibition of importation of foreign currency. Haitian Government requests special investigation by Department.⁶⁸

Department has replied that before reaching any decision as to necessity of investigation, it requires full information from Haitian Government as to the reasons for its change of attitude regarding modifications of bank charter and its refusal to put into effect Article 15 of the contract of the Retrait; for its refusal to enact

⁶⁵ See the section on the execution of the treaty of Sept. 16, 1915, and supplementary agreements, pp. 760 ff.

⁶⁶ Col. John H. Russell, U.S.M.C., commanding the United States military forces in Haiti.

⁶⁷ Latter not printed.

⁶⁸ See two notes of July 30, pp. 767 and 768.

Land Law, and for its approval of legislation reported by you as unsound and improper. Department has further stated that it believed action taken by you was in the best interests of the Haitian people.⁶⁹

Department desires that you keep it far more fully informed than heretofore of all developments in the situation. You are assured of Department's entire support in making effective a policy which will promote the welfare of the people of Haiti.

COLBY

Execution of the Contract of Retrait, April 12, 1919:⁷⁰ Insistence by the United States that the Haitian Government Give Effect to Article 15 Restricting the Importation and Exportation of Non-Haitian Currency

611.3831/2a : Telegram

The Acting Secretary of State to the Chargé in Haiti (Belden)

WASHINGTON, March 9, 1920—3 p.m.

26. Referring to Article 15 of the Contract of the Retrait the Government of the United States feels strongly that the obligation of the Haitian Government formally established in this article, to prohibit importation and exportation of non-Haitian currency except such as may be necessary to meet the requirements of commerce in the judgment of the Financial Advisor, may not further be ignored and should at once be put in operation. It is the desire of the Department that you place this matter as strongly as possible before the Haitian Government and obtain the issuance of an *arrêté* carrying out the provisions of the contract.

POLK

611.3831/2a suppl : Telegram

The Secretary of State to the Chargé in Haiti (Belden)

WASHINGTON, March 29, 1920—noon.

32. Department's March 9, 3 p.m.

Has Haitian Government issued *arrêté* carrying out provisions of the Contract of the Retrait? Memoranda of Minister of Finance on this subject have been considered by Financial Advisor. Department's March 9, 3 p.m. is answer thereto.

COLBY

⁶⁹ *Aide-mémoire* of Aug. 3, p. 769.

⁷⁰ For previous correspondence concerning the contract, see *Foreign Relations*, 1919, vol. II, pp. 352 ff.; see also communication of July 21, from the Financial Adviser, *ante*, p. 762.

611.3831/4: Telegram

The Chargé in Haiti (Belden) to the Secretary of State

PORT AU PRINCE, April 5, 1920—noon.

[Received April 6—1:45 p.m.]

25. Department's number 32, March 29, noon. Decree has not been issued. The President has instructed Haitian Chargé d'Affaires at Washington to confer with Financial Adviser relative thereto.

BELDEN

611.3831/4: Telegram

The Secretary of State to the Chargé in Haiti (Belden)

WASHINGTON, April 8, 1920—5 p.m.

36. Your No. 25, April 5, noon.

Haitian Chargé d'Affaires called at Department and conferred with Financial Adviser relative to issuance of *arrêté*. The position of the Financial Adviser and the Department has not changed from that set forth in Department's March 9, 3 p.m. You will so inform President and urge that he sign the *arrêté* without further delay.

COLBY

Correspondence with the British and French Governments Regarding the Organization and Powers of the Claims Commission Provided for by the Protocol of October 3, 1919, between the United States and Haiti ⁷¹

433.00/104

The French Ambassador (Jusserand) to the Secretary of State[Translation ⁷²]

WASHINGTON, November 13, 1919.

MR. SECRETARY OF STATE: In the course of a conversation with the American Financial Adviser in Haiti, the Chargé d'Affaires of the Republic at Port au Prince gathered the impression that the Federal Government intended to set up a special commission to which all claims against the Haitian Government would be referred.

My Government wishes me, in this connection, to remind Your Excellency, for all pertinent purposes, that so far as the French claims are concerned, the question is no longer an open one, and that a protocol of arbitration was signed on September 10, 1913, between the Government of the Republic and the Haitian Republic, a protocol which remains to be executed.

If however the Federal Government should deem it necessary to constitute a new commission, my Government would not in any way

⁷¹ For text of protocol, see *Foreign Relations*, 1919, vol. II, p. 347.

⁷² File translation revised.

interpose obstructions, but it ought to be well understood in that event that the said commission shall not have cognizance of the French claims already determined or arbitrated, except for the purpose of insuring their settlement, and that on the other hand its jurisdiction would extend to all other claims, including those which are too recent to have been entered in the schedule drawn up in 1913, as also the claims of Syrians, which might be presented by the Legation of France.

With regard to the composition of the commission, my Government is of opinion that, besides a French representative, there should be included therein a representative of a disinterested third power who, by siding with the one or the other of the parties, would carry the decision under every desirable safeguard. Again, my Government could see no objection, should such an arrangement promote an understanding, to the Haitian Government being represented on that commission by an American or even to the Financial Adviser being made a member.

I should be very thankful to Your Excellency if you would kindly let me know whether, as my Government hopes, you will favorably entertain the foregoing suggestions.

Be pleased [etc.]

JUSSERAND

438.00/107

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

WASHINGTON, April 22, 1920.

SIR: By a note of November 13, 1919, I had the honor of stating to the Honorable Robert Lansing the grounds upon which my Government held that the protocol of arbitration signed September 10, 1913, by the Government of the Republic and the Haitian Republic was still regarded as valid by it.

I should be thankful to Your Excellency if you would kindly let me know whether the Government of the United States does, as my Government thinks it will, share its view on this point and others touched upon in that same note.

Be pleased [etc.]

JUSSERAND

438.00/106

The Secretary of State to the British Appointed Ambassador (Geddes)

WASHINGTON, May 6, 1920.

EXCELLENCY: I have the honor to acknowledge the note of the Chargé d'Affaires of Great Britain, Mr. Lindsay, of January 31,

1920,⁷³ in which he pointed out that His Majesty's Government must, by reason of there being no provision for the representation of the government of a foreign claimant in the Claims Commission established in the protocol between the United States and Haiti, reserve the right to present claims through the diplomatic channel if such claimants are not satisfied with the awards of the Commission. He pointed out further that His Majesty's Government is not prepared to allow the reduction of any admitted claim.

After careful consideration of the point raised in Mr. Lindsay's note, I have been advised that Mr. McIlhenny, Financial Adviser to the Government of Haiti, will nominate, after consultation with the British Embassy in Washington, a British subject to serve during the consideration of British claims, as the third member of the Claims Commission.

I would be pleased to know what effect, if any, this procedure has upon the attitude of His Majesty's Government, as expressed in Mr. Lindsay's note above referred to.

Accept [etc.]

BAINBRIDGE COLBY

438.00/109

The British Appointed Ambassador (Geddes) to the Secretary of State

WASHINGTON, May 12, 1920.

SIR: I have the honour to acknowledge the receipt of your note of the 6th inst. in which you inform me that the Financial Adviser to the Government of Haiti will nominate, after consultation with this Embassy, a British subject to serve during consideration of British claims as the third member of the Haitian Claims Commission.

In view of the provision thus made for British representation on the Commission, I am authorized to inform you that His Majesty's Government withdraw the reservation made in the note from this Embassy of January 31st, to the effect that they cannot agree to the reduction of any admitted claim. They must however maintain the right, as formulated in the same note, to present claims through the diplomatic channel failing a satisfactory settlement.

I have [etc.]

A. GEDDES

438.00/111

The Acting Secretary of State to the French Chargé (Béarn)

WASHINGTON, October 29, 1920.

SIR: I have the honor to transmit herewith a memorandum replying to your note of August 30, last,⁷⁴ which conveyed instructions received

⁷³ Not printed.

⁷⁴ Note not printed.

from the French Government regarding the appointment of the Claims Commission provided for in the Protocol signed between the American and Haitian Governments on October 3, 1919.

Accept [etc.]

NORMAN H. DAVIS

[Enclosure]

The Department of State to the French Embassy

MEMORANDUM

Receipt is acknowledged of the note of the French Embassy of August 30, stating that the French Legation in Haiti has been notified by the Financial Adviser to the Haitian Government that the Claims Commission provided for by Article II of the Protocol signed October 3, 1919, between the American and Haitian Governments, would meet in the near future and that pending claims against the Haitian Government would be referred to it. The Embassy further states that it has received instructions from the French Government, notwithstanding its set purpose not to hamper in any way the action of this Government in Haiti, to request that the Financial Adviser to the Haitian Government be instructed by the Government of the United States to defer until further notice the meeting of the Claims Commission, on the following grounds.

The French Embassy refers to the protocol of arbitration for the settlement of French claims which the French Government signed with the Haitian Government on September 10, 1913, providing that all claims against the Haitian Government entered by French citizens should be settled by an arbitral tribunal consisting of three members—one selected by the Haitian Government, one by the French Government, and the third designated by common accord of the first two members. The Embassy refers likewise, to the note addressed on November 16, 1915, by the Secretary of State to the French Ambassador,⁷⁴ in which was contained the following statement: "Nothing will be neglected to reach a settlement as soon as possible by either amicable or arbitral procedure of all pending pecuniary foreign claims, including those based on facts anterior in date to the putting into effect of the pending Treaty."

The French Embassy adds that it appears to the French Government from that statement that the Government of the United States made an engagement with the French Government to seek a settlement of the French claims by either amicable or arbitral procedure and that the mode of settlement devised by the Financial Adviser to the Haitian Government of pending claims against the Haitian Government is not consistent with either an amicable settlement of

⁷⁴ Not printed.

French claims or the arbitral procedure provided by the Franco-Haitian Convention of 1913, and the statement of the Secretary of State above quoted. The Embassy also states that the Claims Commission instituted by Article II of the Protocol of October 3, 1919, between the United States and Haiti is, in the opinion of the French Government, merely an extraordinary tribunal, the judges of which are appointed by the American and Haitian Governments, but not by the parties concerned, and that the Claims Commission should therefore not be regarded as an arbitral tribunal.

The Embassy declares that the French Government is, as before, willing to listen to and consider any suggestion that may be offered by this Government, leading to an amicable settlement of the claims, but that if a direct agreement does not appear to be feasible, the French Government asks that French claims pending against the Haitian Government be examined and passed upon by an arbitral tribunal in accordance with the procedure defined in the Franco-Haitian Convention of 1913, and in accordance with the assurance of the Secretary of State above quoted, and the Embassy suggests that the arbitral tribunal might consist of an American or Haitian appointed by this Government, a Frenchman appointed by the French Government and an umpire of some other nationality chosen by mutual agreement of the first two.

The Government of the United States desires to bring to the attention of the French Government the following facts: The French Government is doubtless aware that Article XII of the Treaty between the United States and Haiti, signed September 16, 1915, provides for the execution by the Haitian Government with the United States of a protocol for the settlement by arbitration or otherwise of all pending pecuniary claims of foreign corporations, companies, citizens, or subjects, against Haiti. In accordance with the provisions of that Article, the Protocol of October 3, 1919, referred to by the French Embassy was signed by the Governments of the United States and Haiti and provided for the establishment of a Claims Commission to settle the pending pecuniary claims against the Haitian Government as detailed in Article XII of the Treaty of September 16, 1915. Provision was made in Article II of that Protocol for the constitution of a Claims Commission composed of three members—one member to be nominated by the Secretary of State of the United States, one member to be nominated by the Minister of Finance of Haiti, and the third member, to be neither a citizen of Haiti nor of the United States, to be nominated by the Financial Adviser to the Haitian Government, all three members so nominated to be appointed by the Government of Haiti. While this Government is unable to admit that the mode of settle-

ment of pending pecuniary claims against the Haitian Government provided for in this Protocol is not consistent with an amicable settlement of the French claims, the Government of the United States appreciates the justice of the contention of the French Government that the tribunal established to pass upon the claims of French citizens should be so constituted as to include among its members a member nominated by the French Government.

In accordance, therefore, with the assurances conveyed by the French Embassy that the French Government is willing to consider any suggestion that may be offered by the Government of the United States, leading to an amicable settlement of the claims, the Government of the United States, animated by its desire to meet, so far as possible, the wishes of the French Government, is willing to make the following suggestions:

That the Claims Commission established by virtue of the Protocol between the United States and Haiti of October 3, 1919, be composed as provided in that Protocol, of one member to be nominated by the Minister of Finance of Haiti, one member to be nominated by the Secretary of State of the United States, and the third member, during the period in which the claims of French citizens are being considered, to be designated by the French Government and nominated by the Financial Adviser to the Haitian Government, and all three members so nominated to be appointed by the Government of Haiti:

That the French Government signify its willingness to have all French claims, whether already passed upon by other commissions or not, reviewed by the Claims Commission constituted as above indicated and that this Commission may make such final awards as may seem to that Commission just and equitable:

That if after examination the French Government considers that any claim has not received satisfactory settlement, the French Government will retain the right to present such claims through the diplomatic channel, or to have such claims finally passed upon by an arbitral tribunal composed as provided in the Protocol signed September 10, 1913, between the French Government and the Government of Haiti.

In the opinion of the Government of the United States, the presence on the Claims Commission of a member nominated by the French Government should remove any objections which the French Government has heretofore held regarding the submission of French claims to this tribunal, and it is believed that this mode of procedure will constitute in the most satisfactory manner that method of amicable settlement of those claims indicated in the note of November 16, 1915, addressed by the Secretary of State to the French Ambassador.

In view of the earnest desire of this Government that the Claims Commission in Haiti may be constituted and may proceed to function at the earliest possible opportunity, the Government of the United States trusts that an early acceptance of the suggestions of this Government, as above stated, may be received, since it is believed that the method of settlement of the French claims above suggested must prove entirely satisfactory to the French Government.

WASHINGTON, *October 29, 1920.*

438.00/116

The French Ambassador (Jusserand) to the Acting Secretary of State

[Translation ⁷⁸]

WASHINGTON, *December 14, 1920.*

MR. SECRETARY OF STATE: In a memorandum dated October 29 last, Your Excellency was pleased to lay before the Embassy certain propositions which the Government of the United States, desiring to heed as far as possible the views of the Government of the Republic, saw fit to offer with a view to a settlement of the French claims in Haiti.

In reply to your memorandum I have the honor to inform Your Excellency that with the exception of the claims that have already passed through the regular channel and which shall be mentioned hereinafter, the Government of the Republic is disposed to accept the procedure suggested by the American Government, on condition, however, that it shall be well defined through an exchange of notes with regard to:

1. The absolute right of the French Government to refer to an arbitral tribunal instituted in accordance with the Franco-Haitian Protocol of 1913, all claims whose settlement by the Claims Commission would not be deemed satisfactory.

2. The extreme limit of time in which the Haitian Government shall appoint its arbitrator for the organization of the said tribunal.

3. The mode and term of payment of claims settled by the arbitral tribunal.

As for the French claims that have already been settled in principle as a consequence of a regular proceeding, it does not seem possible again to refer to the Claims Commission.

Moreover these claims are few and may be divided into three classes:

⁷⁸ File translation revised.

(a) Claims settled by the arbitral tribunal organized under the Franco-Haitian Protocol of 1913. They number three, namely:

- (1) Lassalle claim, allowed in the sum of \$3000.00;
- (2) Barthe claim, allowed in the sum of \$1100.00;
- (3) Clovis claim, rejected.

(b) Claims settled by a special arbitral tribunal (Rouzier claim). In consequence of a difference that arose between Mr. Semexant Rouzier and the City Government of Cape Haitien, the parties agreed to refer the case to arbitration. The tribunal gave its award against the City Government of Cape Haitien in the sum of \$8,800 to be paid to our fellow countrymen. Under the law of Haiti the State must see to the payment of the debts of city governments when these are not able to meet their engagements.

(c) Claims settled by the Haitian courts. One case alone comes under that head. It is the Gluck claim. The Haitian courts found against the Government which was sentenced to pay Mr. Gluck the following sums: \$524.00, 55.553 francs and 189 Haitian piasters.

To the amount of these claims there may properly be added annual interest at 6% from the date of the judgment. The total sum is about \$20,000, and the French dependents request its payment.

Finally the Government of the Republic urgently requests that a solution should be reached also as soon as possible with regard to the service of the foreign debt and internal debt of Haiti.⁷⁶

The foreign debt consists of the three loans of 1875, 1896, and 1910 floated in France. The service of those loans is secured by special appropriations, and before the American occupation, was regularly attended to by the Haitian Government in spite of the revolutions and internal difficulties of various kinds.

Now, although the convention of 1915 provides by article 5 that "all resources recovered and cashed by the Receiver General shall be applied . . . to the interest and to the amortization of the Public Debt of Haiti", payment of the interest was suspended several years and the outstanding coupons were not paid until the beginning of 1920, and yet the service of the debt has not been so far regularly resumed. The receipts of Haiti in the fiscal year 1918-1919, reached the figures of \$5,225,422.00 and 3,482,802 gourdes, which, in the last eight years were exceeded but once, in 1911-1912, and it is not seen why the service of the external debt of Haiti should not be continuously attended to.

The service of the internal debt which had always been regularly attended to by the Haitian Government before the occupation, has

⁷⁶ For papers relating to this subject, see pp. 837 ff.

also been suspended since 1915. This situation is very prejudicial to the French merchants settled in Haiti who had invested their savings in bonds of the internal debt and now find it impossible either to sell them or contract loans upon them on account of the depreciation caused by the suspension of payment of the interest.

Finally, it would be desirable to have also the question of the payment of interest and amortization settled, as regards:

(1) The consolidated debt acknowledged by a law published December 8, 1915, that is to say, under the rules of the occupation.

(2) The floating debt which has been verified at the request of the Financial Adviser, and

(3) The Bonds of the Revolution and the Davilmar Bonds, which may properly be verified and even reduced but have been legal tender in Haiti.

Since the American intervention in Haiti had for its object as stated in the very language of the convention of 1915 "to establish the Haitian finances on a substantial basis", the Government of the Republic indulges in the hope that the American Government will kindly take into consideration the foregoing facts and take into account the rights of the French creditors of Haiti.

Be pleased [etc.]

JUSSERAND

438.00/117

The French Ambassador (Jusserand) to the Acting Secretary of State

[Translation]

WASHINGTON, December 26, 1920.

MR. SECRETARY OF STATE: In continuation of my note of the 16th [14th] instant relative to the settlement of the claims of French nationals in Haiti I have the honor to inform Your Excellency that the French Government wishing to take into account the remarks I had laid before it as coming from the State Department is disposed to let the Gluck claim be referred to the Claims Commission provided however that it shall be distinctly understood that the Commission should only pass upon the question of the execution of the judgment.

Inasmuch as the claim has been regularly adjudicated by a Haitian Court against the Haitian Government the French Government holds that there can be no question of reviewing the duly recognized rights of our fellow countryman.

JUSSERAND

488.00/117

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

WASHINGTON, January 17, 1921.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's notes of December 14 and December 26, 1920, relative to the settlement of the claims of French nationals in Haiti, as well as to the payment of interest and amortization on the foreign and internal debt of that Republic, and to state in the above connection that this Department is gratified to note that Your Excellency's Government is disposed to accept the procedure suggested in the Department's memorandum of October 29, 1920, in connection with the settlement of the claims above noted; this acceptance being with certain exceptions and on condition that the procedure shall be well defined through an exchange of notes with regard to three specific points set forth in Your Excellency's note of December 14, 1920. Inasmuch as this procedure is to be that of the Haitian Government rather than of the United States, it would appear that the former is the proper Government to effect such an exchange of notes with Your Excellency's Government. I may add, however, that this Government does not perceive any objection to the principles involved in the three points mentioned above nor to their definition through such an exchange of notes.

In regard to the French claims that have already been settled in principle as the consequence of a regular proceeding, that is to say, the claims grouped under A, B and C in Your Excellency's note of December 14, 1920, I fully agree with Your Excellency's view that, with the exception of the Gluck Claim which will be considered later, they should not be referred to the Claims Commission.

In respect to the Gluck claim mentioned above, I am pleased to observe from Your Excellency's note of December 26, 1920, that the Government of France is disposed to let that claim be referred to the Claims Commission, provided, however, that it be distinctly understood that the Commission should only pass upon the question of the execution of the judgment. The Government of the United States fully concurs in this aspect of the case.

The question of the service of the foreign and internal debt of the Haitian Republic is one which, if Your Excellency will permit, I will have the honor to answer in detail by a separate note at an early date.⁷⁷

Accept [etc.]

NORMAN H. DAVIS

⁷⁷ Note of Jan. 17, 1921, p. 843.

Financial Arrangements Looking Toward the Service of the Public Debt⁷⁵

838.51/921

The French Ambassador (Jusserand) to the Secretary of State[Translation ⁷⁶]

WASHINGTON, April 15, 1920.

MR. SECRETARY OF STATE: The Chargé d'Affaires of the Republic at Port au Prince brings to my notice the predicament in which the French holders of bonds of the Haitian internal debt or of certificates of indebtedness of the Haitian Government are placed in the country to which he is accredited. On account of the high rate of exchange they hesitate to use in Haiti such funds as they may have in France, and on the other hand their bonds or certificates have lost their legitimate value with banks since they stopped bearing interest. That unsettled condition if prolonged is, according to what is written to me, apt to bring on a grave crisis and many financial breakdowns.

A statement drawn up by the parties in interest, an abstract of which is herein enclosed,⁸⁰ recites the genesis of the Haitian internal debt.

I should be thankful to Your Excellency if you would kindly enable me to reassure my fellow countrymen as to the safe-keeping of their interests.

Be pleased [etc.]

JUSSERAND

838.51/921

The Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, April 30, 1920.

EXCELLENCY: I have the honor to acknowledge your note of April 15, 1920, in which you inform me that the French Chargé d'Affaires at Port au Prince has brought to your notice the predicament in which the French holders of bonds of the Haitian internal debt, or of certificates of indebtedness of the Haitian Government, are placed in the country to which he is accredited. I have also taken notice of the statement drawn up by the interested parties, which was enclosed with your above mentioned note.

I have conferred, in regard to this matter, with the Financial Adviser to the Republic of Haiti and he advises me relative thereto as follows:

⁷⁵ See also the section on negotiations with the Haitian Government regarding the flotation of a loan, pp. 845 ff.

⁷⁶ File translation revised.

⁸⁰ Not printed.

The liquidation of the internal, as well as the external, debt of Haiti is dependent upon the flotation of an adequate loan in the United States. Until the loan is placed it has not been deemed wise to appoint the Claims Commission provided for in the Protocol of October 3, 1919,⁸¹ as it is desired to pay the claims in cash or bonds as they are adjudicated. During the period of the war, the commerce of Haiti fell off to such an extent as to make it impossible for the Haitian Government to pay the interest on her recognized debt but a small amount of money was saved, however, and this money was applied to the payment of deferred interest to January 1, 1920, on the bond issues of 1875, 1896 and 1910 held in France. The payment of the interest on the internal debts was not made at that time as these debts have not as yet been passed upon by the Claims Commission.

I would be grateful if you would convey to your Government the assurances that the re-financing of Haiti is receiving the earnest attention of the Financial Adviser and of the American Government and will be accomplished as soon as the American money market will permit.

Accept [etc.]

BAINBRIDGE COLBY

838.51/950a : Telegram

The Acting Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 21, 1920—5 p.m.

68. For McIlhenny.

Department is advised that interest on foreign debt has not been paid since January. Please advise Department whether interest now due can be paid from available surplus on hand and if so inform Department of the reasons for the non-payment of interest. Repeated inquiries on this subject have been addressed to the Department by the French Government.

DAVIS

838.51/951 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 27, 1920—5 p.m.

[Received 11:30 p.m.]

56. From McIlhenny:

Department's 68, August 21, 5 p.m. I have today requested the Government to authorize the Receiver General to place to my credit

⁸¹ *Foreign Relations*, 1919, vol. II, p. 347.

\$2,250,000 to authorize me to convert this sum into francs and with the proceeds pay interest and amortization now due. Requested that French Government be not informed of my intention to pay amortization as under contracts I am privileged to buy bonds on bourse below par to meet amortization.

If the Haitian Government complies with my request I will pay interest due at once.

BLANCHARD

838.51/956 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, September 4, 1920—5 p.m.

[Received September 7(?)—2:30 p.m.]

61. From McIlhenny:

Department's 68, August 21, 5 p.m. My 56, August 5 [27], 5 p.m. Haitian Government has notified me of its approval of my suggestion that interest and amortization now due on foreign debt be paid, and for this purpose it proposes to transfer to me \$2,200,000. It has, however, formally notified me that it proposes at the same time that it pay[s] the interest and amortization on the foreign debt to take up the payment of the interest and capitalize the interior debt, also that it is their desire and purpose to abrogate the protocol between the American and the Haitian Governments signed October 3rd, 1919, the principal reason being that the need for the loan owing to the increased income of Haiti no longer exists, that the advantage to be gained [by] the low value of the French franc has been largely eliminated and for the further reason that the present loans are for a long term and on a 5 and 6 per cent basis whereas they believe it will be necessary to float the new loan on a 7 or more per cent basis.

I am replying at once to this proposal urging them that no such action be taken and respectfully suggest that the Department take a definite and adverse stand in opposition thereto.

BLANCHARD

838.51/951

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 341

WASHINGTON, September 9, 1920.

SIR: Referring to the Department's telegram of August 21, 5 p.m., for Mr. McIlhenny and to your telegrams in reply of August 27, 5 p.m., and August 28, 9 a.m.,⁸² transmitting his answer, in regard to

⁸² Telegram of Aug. 28 not printed.

applying a portion of the surplus revenues in the hands of the General Receiver to the arrears of interest and amortization of the foreign debt of Haiti, the Department informs you that it has given the question of the debt service careful study and has come to certain definite conclusions.

In the first place the Department believes that in view of the favorable turn taken by Haitian customs revenues since October, 1918, the current interest and amortization of the public debt of Haiti should be given priority from now on over the current needs of the *Gendarmerie* and the expenses of the Haitian Government, as plainly contemplated by Article V. of the Treaty. But in order to avoid the necessity of making the segregations called for by the "affectations", it is suggested that in lieu thereof a fixed sum be segregated by the General Receiver monthly from the customs revenues collected by him sufficient to provide for the payment when due of all the interest and sinking fund requirements of that part of the public debt recognized as valid in the Protocol of October 1919, namely Items 1—2—3 and 4 of Article III. Judging by the monthly reports of the General Receiver for the five months from October 1919 to March 1920,⁸⁴ the latest ones available to the Department, showing an average surplus of \$300,000, it would seem that \$200,000 monthly would not be an excessive fixed sum to segregate and apply. On the other hand this sum would appear to be amply sufficient to meet all the requirements of the admitted portion of the public debt. However, the Department wishes to have Mr. McIlhenny's views as to the propriety of this sum.

The Department wishes the plan of the monthly segregations to be in the nature of a permanent arrangement, not to be varied because of a possible temporary decrease in the revenues. For example, if the surplus remaining after the segregation has been made for any month is insufficient to meet the current needs of the Government for that month this should not lead to a reduction in the segregation for the next month, but rather to immediate steps being taken to provide new revenues. In this connection it is suggested that at the first favorable opportunity the project of the Financial Adviser for increasing the internal revenues and improving their collection be again urged upon the Haitian Government.

It has occurred to the Department that in view of the clear language of Article V., providing that all applications of customs revenues to interest and amortization of the Public Debt of Haiti are to be made by the General Receiver, the Financial Adviser will undoubtedly wish ultimately at least to have the item of \$3,000,000, now showing on the General Receiver's accounts as having been

⁸⁴ Not printed.

paid to him, shown as having been expended by the General Receiver on interest and amortization. The same consideration will undoubtedly occur to Mr. McIlhenny with reference to the \$2,250,000 now proposed to be expended by him for interest and amortization. In fact if, when this instruction is received by you, the authorization requested of the Haitian Government, referred to in your telegram of August 27, 5 p.m., has not yet been granted, Mr. McIlhenny may find it desirable to withdraw it and to have the General Receiver expend the sum mentioned in the manner provided and under the powers conferred, by Article V. already referred to, with the advice and assistance of the Financial Adviser. In the matter of the application of the money on arrears of amortization it is recommended that, after it has been converted into francs, the terms and provisions of the several foreign loans be strictly followed.

After the foregoing plan has been put into operation the Department believes that Haitian public credit will have improved so considerably that a loan on favorable terms for Haiti will be much easier to obtain in case the Financial Adviser should still consider a refunding loan desirable or necessary. The Department is now endeavoring, in accordance with Mr. McIlhenny's wishes, to obtain the nomination by the French and British Embassies, of a temporary French, and a temporary British, member for the Claims Commission.⁸⁸ It is in entire accord with his suggestion that the early functioning of the Claims Commission is highly desirable.

You will communicate the foregoing to Mr. McIlhenny immediately and consult with him freely in reference thereto, transmitting for him as usual any observations or suggestions he may desire to submit to the Department.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

838.51/997: Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, October 16, 1920—10 a.m.

[Received 10:55 p.m.]

78. Department's 341, of September 9, 1920. Financial Adviser concurs in plan outlined by Department but suggests \$175,000 be set aside monthly instead of \$200,000 and applied as follows by Receiver General: Interest and amortization foreign debt, \$136,626.74, computed at par; interest on Banque Nationale debt, \$8,665.78; ⁸⁸ interest

⁸⁸ See pp. 827 ff.

⁸⁹ Annual interest on Haitian Government's note for \$1,733,154.87 held by the Banque Nationale was \$103,989.29.

guaranty National Railroad, \$17,500; ⁸⁷ interest guaranty, \$3,440, and amortization [of arrears?] of interest guaranty, \$2,880, P C S Railroad ⁸⁸ [garbled group]. Saving on foreign debt service due to depreciation of franc to be devoted proportionately to retirement Banque Nationale debt and interest guaranty arrears National Railroad. Does Department approve and desire that plan be put in operation at once?

BLANCHARD

838.51/997: Telegram

The Acting Secretary of State to the Minister in Haiti (Bailey-Blanchard)

WASHINGTON, October 19, 1920—7 p.m.

95. Your 78, October 16, 10 a.m.

Department approves and desires that plan be put in operation at once.

DAVIS

838.51/1051

The French Ambassador (Jusserand) to the Acting Secretary of State

[Translation ⁸⁹]

WASHINGTON, December 21, 1920.

MR. SECRETARY OF STATE: In the latter part of the month of August last, the competent office of the State Department was good enough to give this Embassy the assurance that the coupons of the Haitian 5% gold loan of 1910 would be paid at maturity, on November 15.

It now appears, from information transmitted to me by my Government under date of November 28 last, that the intention to pay the coupon was not announced, and the Haitian Government or its representatives took advantage of the fall caused by this failure to pay the coupons, and bought in the stock market of Paris some hundreds of bonds.

This proceeding seems all the more unaccountable as, according to the information which the Department of State kindly furnished unofficially to the Embassy, the funds required for the payment of the coupon had been sent in good time to the agency of the Farmers

⁸⁷ Annual interest guaranty, \$248,120.71.

⁸⁸ Compagnie des Chemins de Fer de la Plaine du Cul-de-Sac; annual interest guaranty, \$41,280, and amortization of arrears, \$34,560.

⁸⁹ File translation revised.

Loan Company in Paris, to be turned over at the proper time to the Banque de l'Union Parisienne and to the Banque Industrielle.

The American Government will no doubt share the view of the Government of the Republic that such proceedings, tending to induce the French holders of the bonds to relinquish them at a price lower than that which they should command, cannot be regarded as proper. My Government trusts that you will kindly call these facts to the attention of the Haitian Government and its Financial Adviser and impress upon them the necessity of resuming the regular service of the three Haitian loans.

Be pleased [etc.]

JUSSERAND

488.00/116

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

WASHINGTON, January 17, 1921.

EXCELLENCY: In further reply to Your Excellency's note of December 14, 1920,⁹⁰ with particular reference to the request therein that a solution should be reached as soon as possible with regard to the service of the foreign debt and internal debt of Haiti, I have the honor to state that the Financial Adviser of that Republic has informed this Department that in February 1920 he advised the Farmers' Loan and Trust Company in Paris to transfer from funds to his credit as Financial Adviser in that Bank to the Société Credit et Industrielle and to the Banque l'Union Parisienne francs in sufficient amount to pay the deferred interest coupons on the loans of 1875, 1896 and 1910, to January 1, 1919, and authorized the above banks to pay the deferred coupons on the said loans to that date from the sums deposited with them by the Farmers' Loan and Trust Company. Further, the Financial Adviser states that in September 1920 he placed to his credit in the above Company at Paris 32,397,253.78 francs, and that in October 1920 he advised the Farmers' Loan and Trust Company to transfer 1,604,526.31 francs of this amount to the Banque l'Union Parisienne to the credit of A. J. Maumus, Receiver General of Customs in Haiti for the purpose of meeting the interest coupons maturing November 15, 1920, of the loan of 1910. A cablegram from the Farmers' Loan and Trust Company in Paris has informed the Financial Adviser that the above amount was so transferred and the interest coupons due November 15th were paid.

⁹⁰ *Ante*, p. 833.

This Department is also informed by the Financial Adviser of the Haitian Government that the amount necessary to pay the semi-annual interest coupons of the loans of 1875 and 1896, the former due January 1, 1921, and the latter due December 31, 1920, has been deposited with the Société Credit et Industriale, and that there is sufficient monies to the credit of the Financial Adviser in the Paris banks to pay the deferred amortization on the three loans, to wit., 1875, 1896 and 1910, as well as the amortization falling due on December 31, 1920, and January 1, 1921. Finally, the Financial Adviser states that under his direction the deferred amortization is now being paid and that he has provided for amortization falling due. In October of this [*last*] year the Receiver General of Customs of Haiti provided that \$136,626.74 monthly be set aside for the service of the external debt.²¹ It would appear in view of the facts set forth above that the Government of Haiti had made adequate provision for the payment of interest and amortization on its external debt.

In connection with the solution of the internal debt of the Republic of Haiti which the Government of France urgently requests should be reached as soon as possible, I have the honor to state that this Government equally recognizes the desirability of such a solution, and is able to inform Your Excellency that it will be attained as soon as the negotiations now in progress for a loan to Haiti shall be successfully concluded. As you are aware, the Government of the United States has made repeated efforts to assist the Government of Haiti in securing such a loan which would enable that country to pay its debts, and that the unprecedented condition in which the world has found itself during the past five years has always intervened to prevent the conclusion of such a loan. Such conditions unfortunately are still hampering its immediate achievement, but I am pleased to state that the Department is hopeful of the conclusion of the Haitian loan in the very near future.

I can assure Your Excellency that the Government of the United States has taken into consideration the facts relative to the foreign and internal debt of Haiti set forth in Your Excellency's note of December 14, 1920, and will continue in the future as has been the case in the past always to take into account the rights of the French creditors in Haiti.

Accept [etc.]

NORMAN H. DAVIS

²¹ See telegram no. 78, Oct. 16, 1920, from the Minister in Haiti, p. 841.

Negotiations with the Haitian Government Regarding the Flotation of a Loan

488.00/118: Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, September 13, 1920—7 p.m.

75. Your 61 September 4, 5 p.m.⁹² and 62 September 8, noon.⁹³

In the opinion of the Department it is clearly contemplated in the Protocol⁹⁴ that all pecuniary claims against Haiti except those enumerated in Article III are to be submitted to the Claims Commission. The Protocol still being in full force and effect it would not therefore be proper for the payments suggested by the Financial Adviser to be made at this time.

In this connection the Department wishes a full report by mail as to the extent to which the action contemplated in Article II of the Treaty⁹⁵ providing that the Financial Adviser shall inquire into the validity of the debts of the Republic and in Article IV of the Treaty has been taken and in case these provisions have not been fully carried out to report your opinion and that of the Financial Adviser as to the desirability of immediately taking such action.

The Department is sending you by mail an instruction dated September 9⁹⁶ outlining a plan with reference to the payment of the debt service which it is believed will make evident to the Haitian Government the desirability of the early functioning of the Claims Commission in order to hasten the time when its awards will become an admitted part of the public debt of Haiti entitled to the priority payment provided for in Article V of the Treaty.

COLBY

838.51/990: Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, October 9, 1920—2 p.m.

[Received October 10—9:25 a.m.]

72. Department's 75, September 13, 7 p.m. and 85, October 4, 5 p.m.⁹⁷ From McIlhenny:

⁹² *Ante*, p. 839.⁹³ Not printed.⁹⁴ For text of protocol of Oct. 3, 1919, see *Foreign Relations*, 1919, vol. II, p. 347.⁹⁵ For text of treaty of Sept. 16, 1915, see *ibid.*, 1916, p. 328.⁹⁶ *Ante*, p. 839.⁹⁷ Latter not printed.

The Haitian Government in reply to my letters of September 24, and October 7, requesting that the authorization of October 8, 1919 and January 13, 1920, to float an external loan, withdrawn on September 1, 1920, be renewed and that I be permitted to issue \$15,000,000 of 8 per cent 5 year notes has offered to grant me authority to float a loan but with the following conditions.

That statement and term notes be issued for only \$8,000,000; that only such part of the 30 years 6 per cent bonds be issued as is necessary for collateral for the short term notes and that I will accept the Haitian Government's claim that there is no distinction to be drawn between the internal and the external debts of Haiti; that the internal debts of the country are not subject to the provisions of the Protocol and for that reason not reviewable by the claims commission and that I further agree to the immediate resumption of the service of these debts. The negotiation [of \$]8,000,000 will be sufficient to redeem the French bonds if francs can be purchased at 14 or better but will not issue sufficient money to pay off certain of the interior debts which must be liquidated in gold such as the note to the Banque National[e] for \$1,725,154.87 [~~\$1,733,154.87~~] due December 31, 1920, with two years interest at 6 per cent, and the deferred interest on the National Railroad bonds amounting now to \$1,400,000. My judgment is that short term notes should not be floated for less than fifteen millions but it would be possible though much more undesirable to do with twelve millions. I also think that the 30 years 6 per cent bonds should be issued in a sufficient amount not only to serve as collateral for the short term notes but to refund the internal debts in so far as they will be accepted by the holders of those debts. The conditions established by the Government are however impossible of acceptance in view of the instructions of the Department and for this reason until they are removed it appears to me unnecessary for me to go to Washington. Under these circumstances is it still the desire of the Department that I proceed to Washington? If so, cable instructions.

BLANCHARD

888.51/990 : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, October 13, 1920—5 p.m.

91. Your 72, October 9, 2 p.m.

Before it will be possible for the Department to consider any modifications in the protocol, it will be necessary for it to have full report of action taken by Financial Adviser under Articles 2 and 4 of the Treaty regarding validity of debts, as suggested in Department's telegram 75, September 13, 7 p.m. The Department should

also have full report with copies of all laws bearing on the validity of internal bond issues of 1912, 1913 and 1914, and the documents relating to the institution and work of the Féquière Claims Commission. The Department desires further a full statement from Financial Adviser of the Haitian Government's position as outlined by him in the telegram referred to.

It would, therefore, be highly desirable for the Financial Adviser to gather the material for all these reports and to proceed with them at the earliest possible moment to Washington in order to consult with the Department regarding possible additions to the list of pecuniary claims in Article 3 of the protocol upon which the Claims Commission shall not have jurisdiction to pass.

COLBY

838.51/1000

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

No. 354

WASHINGTON, October 21, 1920.

SIR: Referring to Mr. McIlhenny's departure for the United States, as reported in your telegram Number 79 of October 19, 9 a.m.,⁹⁸ the Department informs you that when it becomes advisable to resume discussions of the Budget, on the part of the Financial Advisor, the Department does not wish the absence of Mr. McIlhenny to prevent such discussion, as it did last spring. You will, therefore, please inform Mr. Maumus as Acting Financial Advisor, in order that he may be governed accordingly.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

838.51/1007a : Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, November 1, 1920—7 p.m.

96. You are instructed to obtain an interview with the President at the earliest opportunity and inform him that the Department has determined, after consultation with the Financial Adviser and in accordance with his advice, that the internal funded debts of Haiti as represented in the bond issues of 1912, 1913, and 1914, *a*, *b*, and *c*, do not come within the provisions of the Protocol as "pecuniary claims", but are liquidated debts and may therefore be paid or served without submission to the Claims Commission. In order that the Government of Haiti may take advantage of the present favorable rate of French exchange, and in order that it may refund the internal loans, meet the awards of the Claims Commission soon to be ap-

⁹⁸ Not printed.

pointed, pay the immediate and pressing claims recognized by the Protocol, and provide for internal improvements urgently necessary, the Government of the United States strongly recommends that, to carry out provisions Article 6 of protocol, October 3, 1919, the Government of Haiti authorize the Financial Adviser to issue at a rate not less than 95, \$15,000,000 of short term notes at not more than 7½% interest and five years duration, callable at the expiration of two years, and at the same time issue \$25,000,000 of 30 year 6% bonds, \$20,000,000 of this issue to be known as Series A, with interest and amortization payable in New York, to be used as collateral for the \$15,000,000 short term notes and eventually to be sold for the retirement of these short term notes; \$5,000,000 of the issue of 30 year 6% bonds to be known as Series B, with interest and amortization payable in Port au Prince, to be used in refunding the internal debt.

You may advise the President that this recommendation of the Department is made after mature deliberation in the belief that it is of pressing importance that the authorization to the Financial Adviser recommended be given at the earliest opportunity by the Haitian Government because of the present exceptionally favorable exchange conditions now obtaining. You may further state that it is particularly agreeable to the Department to find itself able to meet the views of the Haitian Government as regards the payment and service of the internal loans above mentioned, in particular since the action contemplated will meet the long-standing desire of Haitian public opinion. Under these circumstances, the Department trusts that the President will provide, with the concurrence of his cabinet, without delay, the authorization to the Financial Adviser recommended by this Government.

As soon as the necessary authorization is obtained, cable immediate report to the Department.

You may explain to the President that Financial Adviser will endeavor to place notes bearing 7½% but as French government has just had to pay 8% it may be necessary for the Financial Adviser to request authority to increase the rate to 8%.

DAVIS

838.51/1019 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, November 13, 1920—noon.

[Received November 14—4:35 a.m.]

90. Department's 100, November 12 noon.⁹⁹ Department's November 1, 7 p.m. submitted to President Saturday, sixth. President

⁹⁹ Not printed.

expressed himself pleased at decision regarding internal debt and favorable to proposition which he stated he would lay as soon as received before the Council of Secretaries of State. Yesterday evening Minister of Foreign Affairs handed me in person the reply of the Haitian Government in the form of a counter proposition which in substance is as follows:

The Haitian Government suggests a short term loan for \$11,000,000 at a rate of 95 bearing $7\frac{1}{2}$ [per cent] interest and guaranteed by a bond issue of [\$]13,750,000 bearing 6 per cent interest to cover the following: exterior debt \$6,250,984, bank note principal and two years interest \$1,949,799.10, P C S Railway \$35,000, National Railroad \$1,417,500, total \$9,653,283[.10]; proceeds of short term \$11,000,000 loan at 95, \$10,450,000; balance of \$796,716.90 to be applied to the awards of the Claims Commission and urgent improvements. The Government is opposed in principle to the exteriorisation of the interior debt the consolidation of which as well as of the floating debt and of certain other claims forming the global sum of \$5[,0]-75,470.20 to take place in Haiti under conditions to be later determined between the Government and the interested holders. The Government's contention is that it is not an economical policy to borrow at an effective interest of 7.895 per cent or 7.9 per cent to consolidate an interior debt bearing between 4 and 6 per cent interest and suggests that this consolidation might be effected in Haiti by bonds bearing 4 to 6 per cent interest to be amortized in 30 or 40 years and intended for the reimbursement at par of the loans of six and six two[-thirds] per cent interest and the floating debt. The amortization to be made by purchase of bonds when under par and by drawings when at par or above.

Finally the Haitian Government suggests that the Department of State might order the payment of the arrear interests of the interior loans of 1912, 1913, 1914, series A B C amounting to \$733,600.55 [*\$733,680.55?*] out of the available Government funds.

BLANCHARD

838.51/1019 : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, November 16, 1920—6 p.m.

104. Your 90, November 13, noon.

The Department desires you to inform the President that the Department is willing to accept the suggestion of the Haitian Government that the amount of the short-term loan be modified to \$11,000,000, provided that the short-term notes be issued for a period of five years with the right of retirement after two years at a slight premium, as otherwise the New York banks will not take the notes; provided further that \$15,000,000 of 30 year bonds at 6 per cent be issued as collateral for the eleven millions of short-

term notes as the banks will not accept less; and further, that there be issued five millions of 30 year 6 per cent bonds to be used solely for the retirement of the funded debt and the floating debt. These \$5,000,000 of 30 year bonds will be a separate series, will have its interest and amortization paid in Haiti, and will be in all particulars an internal loan. For this reason it cannot be objected to by the Haitian Government on the ground that the flotation of such a loan would exteriorize the internal debt. The application of what money remains after the payment of the external and internal debt will be made in accordance with the provisions of Article 7 of the Protocol.

You may further advise the President that the Department is glad to be able to agree to the proposition of the Haitian Government as to the modification of the amount of the short-term loan and hopes that in view of its agreement to this feature of the counter proposition of the Haitian Government, the Haitian Government will at once signify its approval of the features of the Department's proposition as above set forth. It is important that you impress upon the President the fact that the terms upon which the loan can now be floated are in all probability far more favorable than any terms which can be obtained at a later date, and that the Haitian Government accept the Department's proposal immediately. If such approval is forthcoming, the Government's authorization should at once be sent by mail to McIlhenny.

Prompt action is essential. Please cable action taken and keep the Department informed by cable of all developments.

COLBY

888.51/1028 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, November 23, 1920—noon.

[Received November 24—10:55 p.m.]

95. My 92, November 19 noon.¹ Minister for Foreign Affairs handed me yesterday evening reply of Haitian Government to my memorandum in compliance with Department's 104, November 16, 6 p.m., annexed to which is an explanatory statement from the Department of Finance. Substance of reply as follows:

Haitian Government—

1. Reiterates its acceptance of \$11,000,000 loan at 95 and 7½ percent interest maturing in five years with privilege of redeeming same two years after date of issue with a slight premium.

¹ Not printed.

2. Insists on its original counter-proposition of a bond issue of \$13,750,000 in lieu of \$15,000,000 for very lengthy reasons and figures in support of their contention. Copy of reply and statement by mail.²

3. Accepts \$5,000,000 six percent bonds redeemable in 30 years which would be used solely for the retirement of the interior debts consolidated and floating. These last \$5,000,000 six percent bonds to be of a separate series of which the interest and amortization will be paid in Haiti and this part of the loan will be considered as being essentially an internal debt.

4. Agrees that after the reimbursement of the external debt and the settlement of the internal debt the balance of the funds from the loan will be applied in conformity with paragraph 4 of article 7 of the protocol of October 3, 1919,³ relative to a loan of \$40,000,000.

5. Considers that the condition foreseen in the protocol of October 3, 1919, being modified, it is not [?] necessary that a new protocol be negotiated to reinvesting [*replace?*] that of October 3, 1919.

6. Finally invites the special attention of the Department of State to the just and urgent necessity for passing instructions to the General Receiver of Customs and Financial Adviser *ad interim* in order that the arrears interest of the internal debt be paid in full or in part, [and states?] that it will be with very great and very legitimate satisfaction that the Haitian Government and people will view the immediate resumption of the service of the internal debt.

BLANCHARD

838.51/1028: Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, November 29, 1920—7 p.m.

108. Your 95, November 23, noon.

You may inform the President that with the following exception the proposal of the Haitian Government as conveyed in its reply to the Department's recommendations contained in its 104 of November 16, 6 p.m., meets with the approval of this Government. You may state that the Financial Adviser will communicate the proposition of the Haitian Government to those banks which it is believed may be interested and will proceed at once, pending receipt of formal authorization, with negotiations for the flotation of the loan. You should impress upon the Government, however, that while the Department hopes that American banks will be willing to accept the proposition of the Haitian Government on the terms communicated in its latest statement, it is by no means certain that the \$13,750,000 bond issue, authorized by the Haitian Government for collateral, will be considered sufficient. You may state further, that the Depart-

² Not printed.

³ Last sentence of art. 7 as printed in *Foreign Relations*, 1919, vol. II, p. 350.

ment assumes that if it is found that no banking interests in this country will take up the loan on that basis, the Haitian Government will authorize a bond issue of \$15,000,000 to be used as collateral instead of the lesser amount which they now insist upon. The Department desires you to make it plain to the Haitian Government that the Department's interest in the flotation of this loan will be made evident to the bankers and that the Financial Adviser will have all proper support from this Government.

COLBY

838.51/1035 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Acting Secretary of State

PORT AU PRINCE, December 7, 1920—3 p.m.

[Received December 9—9:30 a.m.]

100. Department's 108 November 19 [29], 7 p.m. complied with December 2 in an interview with the President. I handed him a verbatim memorandum³ of Department's instruction and I impressed upon him the urgency of forwarding formal authorization to Financial Adviser for the floating of the loan. The President stated that he would immediately place the matter before the Cabinet and that I would receive a reply as soon as possible thereafter. The reply dated December 4th was delivered yesterday and is as follows (translation):

"According to the instructions of the Haitian Government the Secretary of State for Foreign Relations in reply to the memorandum relative to a loan handed to the President of the Republic December 1, by His Excellency the Minister of the United States, has the honor to inform him of the satisfaction which the Haitian Government feels in seeing the Department of State of the United States agree to the various propositions contained in its memorandum of 22 November,⁴ notably the study to be made of a new protocol to replace that of October 3rd 1919.

In regard to the 3rd paragraph of the memorandum of December 1st where is said that while the Department of State hopes that the American banks will accept the loan with the propositions of the Haitian Government contained in its memorandum of November 22nd it is not at all certain that the issue of \$13,750,000 of authorized bonds will be considered a sufficient guaranty, the Haitian Government persists in believing that these \$13,750,000 of 6 per cent bonds destined to guarantee the reimbursement of the loan of \$11,000,000 at 7½ per cent, will be sufficient, granted that, as it has been established in the explanatory note attached to the memorandum of

³ Dated Dec. 1.

⁴ See the Minister's telegram no. 95, Nov. 23, p. 850.

November 22nd, this capital of \$13,750,000 shall guarantee an amount of interest equivalent to that of the loan of \$11,000,000 at 7½ per cent and which shall have been paid during the first [five] following year[s]. If the Haitian Government accepted the issue of a loan at 6 per cent greater than the amount of \$13,750,000 which it proposes it would thereby grant an unjustified advantage to the lending bankers, an advantage for which the Haitian people would demand a reckoning from their Government.

The Haitian Government is the more persuaded that its just and equitable proposition will be agreed to by the American banks because the Department of State has been good enough to inform it that it would make known to the bankers what an interest it attached to the success of this loan and because the Financial Adviser who will be charged with the operations will have the entire support of the Government of the United States.

When, as it earnestly hopes, the issue of the \$13,750,000 will have been recognized as sufficient, the Haitian Government will hasten to give with its full approbation of the operation of the loan the official authorization to contract in its name.

BLANCHARD

BOUNDARY DISPUTE WITH THE DOMINICAN REPUBLIC

(See volume I, pages 295 ff.)

HONDURAS

REVOLUTIONARY DISORDERS ON THE FRONTIERS OF HONDURAS:¹ REPRESENTATIONS BY THE UNITED STATES DEPRECATING THE TOLERATION OF REVOLUTIONARY ACTIVITIES AGAINST NEIGH- BORING STATES

815.00/2146 : Telegram

*The Consul in Charge of the Legation in Honduras (Lawton) to the
Secretary of State*

TEGUCIGALPA, January 8, 1920—4 p.m.

[Received January 10—10:50 p.m.]

4. . . . The Foreign Minister asks me to request the Department of State to indicate to the Nicaraguan Government that rumors of revolutionary movement have reached Washington and that the United States Government expects Nicaragua to take measures to prevent, or such other language as the Department deems expedient. S. F. Hopkins cabled Membreño² recently from Washington that the Government of the United States would take no part in the interior affairs of Honduras. Vice Consul Miller³ wires insistent reports in his district that the President elect will not be seated. Membreño leaving ostensibly for Panama. Intercepted correspondence alleges support of the power of [*sic*] Nicaragua and the freedom of the Nicaraguan frontier. Revolutionary forces are to rendezvous from this date on, and on January 25th. to commence fighting.

LAWTON

815.00/2145 : Telegram

*The Consul in Charge of the Legation in Honduras (Lawton) to the
Secretary of State*

TEGUCIGALPA, January 9, 1920—4 p.m.

[Received January 10—9:42 p.m.]

5. Confirming information in my cipher telegram January 8th 4 p.m. Several persons have been intercepted on the highways with rifles and ammunition who have confessed the place and details of the rendezvous and the revolutionary plans. Additional activity reported near the Nicaraguan boundary. President Bográn⁴ asked

¹ See also the chapter on Salvador, vol. III, pp. 729 ff.

² Alberto Membreño, defeated candidate for the presidency.

³ C. C. Miller, vice consul at Puerto Cortes.

⁴ Francisco Bográn, second designate, installed as Provisional President on Oct. 5, 1919.

me this morning to urge the Government of the United States to definitely interrogate the Nicaraguan Government. At the suggestion of Vice Consul Miller and request of the Foreign Minister I urge at least one naval vessel be sent to the north coast to remain there until inauguration of the President or even longer.

LAWTON

815.00/2145 : Telegram

The Secretary of State to the Minister in Nicaragua (Jefferson)

WASHINGTON, January 13, 1920—5 p.m.

6. Supplementing Department's January 9, 3 p.m.⁵

Two telegrams received today from Tegucigalpa⁶ indicating growing concern in Honduras at reported revolutionary activity permitted by Nicaraguan authorities under pretext that they are incidents arising out of the boundary dispute. You are instructed to bring to the attention of the Nicaraguan Government that reports of this nature are being circulated in Honduras and to urge that Government to take the necessary measures to prevent its territory from being used as a base for revolutionary activities against a friendly Government.

LANSING

815.00/2150 : Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Secretary of State

TEGUCIGALPA, January 15, 1920—5 p.m.

[Received January 17—12:40 a.m.]

8. Honduran Government reports that rumored revolutionary attempt from Nicaragua has failed completely. The Nicaraguan President has denied all connection therewith, acknowledging legality Honduran elections and is apprehending Honduras revolutionists.

LAWTON

715.1715/122 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, January 16, 1920—9 a.m.

[Received 2:45 p.m.]

2. Your number 3, January 9, 3 p.m. Substance formally brought to the attention of Nicaraguan Government. Minister for Foreign

⁵ Not printed.

⁶ Refers to the two telegrams, *supra*: these were received late on a Saturday, Jan. 10, and were not delivered within the Department until Jan. 12. The Secretary's telegram was drafted on Jan. 12, but was not sent until Jan. 13.

Affairs informed me that soldiers and military police had been removed from disputed territory and Honduras had been requested to do likewise.

President Chamorro suggested in order to set himself right in the matter that the Department permit me to send marine officer and men to make investigation and report.

Referring to the Department's number 6, January 13, 5 p.m. The President said he would endeavor to concentrate Honduraneans crossing the border and to prevent this country being used as a base for revolutionary activities.

JEFFERSON

715.1715/125 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Jefferson)*

WASHINGTON, January 24, 1920—6 p.m.

7. The following telegram has just been received from Tegucigalpa:⁶

"The Ministers of War and Foreign Relations ask that I inform Department as follows: about 80 Honduraneans are on the Nicaraguan frontier in the disputed territory. They are the crowd who are trying to start on an invasion and they pass back and forth between the two countries unimpeded committing grave crimes. Honduras is asking Nicaragua to prevent them, failing which, the Honduran Government will be obliged to send troops there even at the risk of being considered as invading Nicaraguan territory. This Government therefore requests such cooperation from our Government as may be expedient. All the reports in my previous correspondence on this subject are apparently verified by the actual situation today."

The Department is telegraphing the American representative at Tegucigalpa⁷ to inform the Honduran Government that this Government would deplore under any circumstances any action by the Honduran Government which might be interpreted as an invasion of Nicaraguan territory and to warn the Honduran Government of the grave nature of such action.

You will also urge on the Nicaraguan Government the necessity of taking steps immediately to prevent such raids as are reported in the above telegram in accordance with their declarations reported to the Department in your January 16, 9 a.m.

POLK

⁶ No. 10, Jan. 21, 3 p.m.

⁷ Telegram not printed.

715.1715/123 : Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Secretary of State

TEGUCIGALPA, January 26, 1920—5 p.m.

[Received January 28—12:01 a.m.]

11. I regard the Nicaragua-Honduras situation as extremely dangerous. The President of Nicaragua is undoubtedly permitting revolutionary plots calculate[d] to menace, if not overthrow, the Lopez Government, which at present is disposed to cooperate with our Government fully. The popular impression that the United States rules in Nicaraguan affairs and our Central American prestige will suffer correspondingly if Nicaragua is permitted to continue menacing Honduras in the present manner. President Bográn has asked my opinion about sending the Minister for Foreign Affairs as special envoy to Nicaragua to ask effective reconcentration of revolutionary Honduraneans and also to permit Honduran troops to cross the frontier if necessary in pursuit of rebels now on the border. The actual movement at present is of no special importance but the moral effect of a new President being inaugurated who has been approved by Washington, with a revolution on hand, is creating a very bad impression. If the Nicaraguan President will send an officer and 10 men to tell the revolutionists their activities must stop, the movement will immediately cease. I cannot recommend too strongly the Department's earnest consideration.

LAWTON

715.1715/126 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, January 30, 1920—10 a.m.

[Received 6 p.m.]

3. Department's January 24th 6 p.m. I have urged upon President Chamorro the necessity of using all care in respecting his agreements regarding boundary dispute and to apprehend if possible Honduraneans crossing border into Nicaragua. He informed me that he is conscientiously living up to his agreements.

He informed me this morning he has just received telegram from his Chargé d'Affaires in Honduras to the effect that Honduran Government insists upon his permitting it to send troops into Nicaragua to capture band of Honduran revolutionists. He telegraphed he would not agree to such an invasion of Nicaraguan territory. He informed me he is sending a small guard to the border to prevent raids and to watch movements of Honduran troops.

The President seems much concerned and urges upon the Department the necessity of bringing boundary dispute to an early and final settlement.

JEFFERSON

715.1715/128 : Telegram

The Secretary of State to the Minister in Nicaragua (Jefferson)

WASHINGTON, January 31, 1920—1 p.m.

8. Reports from Legation in Tegucigalpa indicate that it is convinced that President Chamorro is permitting revolutionary plots in Nicaraguan territory against the Government of Honduras. You are instructed to investigate as thoroughly as possible and if necessary to make it absolutely clear to President Chamorro that the United States Government will not condone such revolutionary activities. You may also state that the United States Government expects President Chamorro to take effective steps to prevent Nicaragua from being used as a base of operations against a friendly neighboring government. Unless the United States has immediate assurances combined with effective measures for the performance of Nicaragua's manifest international obligations the United States will feel compelled to make an independent investigation.

LANSING

715.1715/130 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, February 2, 1920—11 a.m.

[Received February 3—12:15 a.m.]

4. Your January 31, 1 p.m. President Chamorro stated that although he had been begged several times by both Membreño and Gutiérrez factions before and after the downfall of Bertrand, he has absolutely refused to give them any assistance.

He believes that the liberal element here and the present Government of Honduras are using improper means to discredit him before the Department of State and he stated that [garbled group] during the Hondurean Minister's stay here he affiliated with liberals and his enemies which acts he considered very improper.

In view of the repeated reports to the Department from the Legation in [Tegucigalpa?], President Chamorro, desiring to set himself aright, insists that Honduras agree that the Department permit me to send an officer and men of the Legation guard to make thorough investigation of this matter and to remain on the border as long as the Department deems advisable.

JEFFERSON

815.00/2153 : Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Secretary of State

TEGUCIGALPA, February 2, 1920—1 p.m.

[Received February 3—7:34 a.m.]

13. President López inaugurated yesterday morning. Cabinet not yet announced. General conditions good. Salvador and Nicaragua apparently cooperating with Honduras on border and revolutionary affairs.

LAWTON

715.1715/129 : Telegram

The Secretary of State to the Consul in Charge of the Legation in Honduras (Lawton)

WASHINGTON, February 7, 1920—2 p.m.

8. The statements regarding revolutionary activities against Honduras contained in your telegram of February 2, 1 P.M. conflict with those made in your telegrams of January 29, 3 P.M.,⁷ January 26, 5 P.M., January 21, 3 P.M.,⁸ January 9, 4 P.M. and January 8, 4 P.M. Department desires to be informed whether Honduran Government is satisfied that revolutionary activities said to have been directed against it from Nicaraguan territory have ceased. You are instructed to inform Department fully by telegraph on this point.

LANSING

815.00/2160 : Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Acting Secretary of State

TEGUCIGALPA, February 18, 1920—3 p.m.

[Received February 19—12:50 p.m.]

20. The Honduran Government asks me to communicate the following:

"Many reports have been received by the Honduran Government of complicity on the part of the Nicaraguan Government in the recent and present revolutionary activity in Nicaragua against Honduras. [It] has been loath to believe these communications but they are so insistent as to compel credence and it now learns that bodies of revolutionists with arms and ammunition furnished by

⁷ Not printed.

⁸ Quoted in telegram no. 7, Jan. 24, to the Minister in Nicaragua, p. 856.

Nicaragua have again invaded Honduran territory. This provocation has been [so] constant, that the Honduran Government wishes to clear the situation and would like to know what would be the attitude of the Department of State if a revolution were to break out in Nicaragua or an open war declared by this Government. The Honduran Government naturally desires to prevent bloodshed at all hazards and would welcome any recommendation or counsel of the United States Government to the end that this friction and trouble with a neighboring republic will be settled definitely and satisfactorily. The Honduran Government, however, feels that the situation is most critical and worthy of the most indulgent care of the American Government."

LAWTON

815.00/2161: Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Acting Secretary of State

TEGUCIGALPA, February 20, 1920—10 a.m.

[Received 9:45 p.m.]

21. Congress has declared state of siege or martial law in southern departments including Tegucigalpa. Recruiting has begun to send additional troops to the Nicaraguan boundary. Public speaker of last night openly declared revolutionary movement from Nicaragua to be with tacit consent of the United States.

LAWTON

715.1715/130: Telegram

The Acting Secretary of State to the Minister in Nicaragua (Jefferson)

WASHINGTON, February 25, 1920—5 p.m.

16. Your February 2, 11 a.m. and Department's January 31, 1 p.m.

Department has requested Navy Department to issue orders for an officer and Marines of the Legation Guard in Managua to proceed to territory from which revolutionary activities are directed against Honduras. These Marines will be instructed not to enter Honduran territory but to make a thorough investigation of alleged activities by Honduran revolutionists. You will receive appropriate instructions as soon as Navy Department informs this Department that orders to the Marines have been issued.

POLK

815.00/2161 : Telegram

*The Acting Secretary of State to the Consul in Charge of the
Legation in Honduras (Lawton)*

WASHINGTON, February 25, 1920—5 p.m.

14. Your February 18, 3 p.m. and February 20, 3 p.m. [10 a.m.] Department has requested Navy Department to issue orders for an officer and Marines of the Legation Guard in Managua to proceed to territory from which revolutionary activities are directed against Honduras. This action taken at suggestion of President Chamorro. These Marines will be instructed not to enter Honduran territory but to make a thorough investigation of alleged activities by Honduran revolutionists. In view of these measures, it is imperative for you to impress upon the Honduran Government the importance of refraining from any action which might lead to a conflict. You will therefore impress upon the Government the importance of refraining from sending troops to the border until this investigation is complete.

POLK

815.00/2163 : Telegram

*The Consul in Charge of the Legation in Honduras (Lawton) to
the Acting Secretary of State*

TEGUCIGALPA, February 25, 1920—5 p.m.

[Received February 27—1 a.m.]

24. The Honduran Government anxiously awaiting a reply to my February 18, 3 p.m.

Revolutionists continue activities after capturing and sacking Danlí, town of 3,000 inhabitants, but were driven back to Nicaraguan territory. They are likely to reappear at some other border point unless Nicaraguan authorities prevent, which seems unlikely, as a spy captured today confessed rebels to number 200 well armed with headquarters Casablanca, Nicaragua, where also they are selling the merchandise of looted stores, and that two inspectors of Nicaraguan boundary police named Franco and Lumbi accompany rebels with their respective patrols.

LAWTON

715.1715/130 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Jefferson)*

WASHINGTON, March 3, 1920—6 p.m.

17. With further reference to Department's February 25, 5 P.M. You are informed that Navy Department is unable to authorize a

detachment of the Legation's guard in Managua to proceed to the scene of revolutionary activities. This fact is for your confidential information and is not for the present to be communicated to the Nicaraguan Government. Department desires further information in regard to the territory from which it is alleged revolutionary activities are being conducted. You are instructed to report as to the facilities for visiting the territory above referred to and as to the extent of the territory involved. The Department might desire you to select some reliable person who might be sent to make an investigation. You are instructed to report whether you can obtain the service of a suitable person.

Department desires to have your opinion first whether there is any reason to believe that arms and ammunition have been or are being supplied to Honduran revolutionists by the Government of Nicaragua and second if this is not the case whether there is any evidence that the Nicaraguan Government has closed its eyes to the activities of Honduran revolutionists on Nicaraguan soil. From your knowledge of the local situation Department desires to be informed what step short of despatching a detachment of Legation guard can you recommend in order to ascertain the facts of the situation.

POLK

815.00/2163 : Telegram

The Acting Secretary of State to the Consul in Charge of the Legation in Honduras (Lawton)

WASHINGTON, March 11, 1920—6 p.m.

19. Your telegram February 25, 5 P.M. and others relative to revolutionary activities by Hondurans in Nicaraguan territory, there is quoted for your information the following contained in a telegram from the American Legation at Managua.

"President Chamorro informed me that he had sent a number of arms and ammunition to his Jefe Politico at Ocotal for the purpose of arming his men in the event that the Honduran troops persisted in threats to invade Nicaraguan territory and that he learned a few days ago that that official had violated his orders and had secretly given assistance to Honduran revolutionists, thereupon he dismissed said official and reissued an order to the effect that all Honduran revolutionists in that territory be immediately captured and sent to Managua, this order was carried out and several of the revolutionists are now concentrated here. The above information also given to Honduran Minister here."

POLK

815.00/2176

The Honduran Minister (López Gutiérrez) to the Secretary of State

[Translation *]

The Minister of Honduras presents his respects to His Excellency the Secretary of State, and takes the liberty of informing him that he is advised that there are in New Orleans the Hondurans, Santiago Meza Calix, Joaquin Alvarado and Fernando Díaz Zelaya, who belong to the régime overthrown by the revolution which lately broke out in Honduras, and who are engaged in preparing an expedition against that country and endeavoring to send arms to Salvador to start their expedition from that place.

The Minister of Honduras would be thankful to the Department of State if it would issue orders to prevent that filibustering expedition against his country, the only result of which would be more shedding of blood without any success.

The Minister of Honduras once more offers to His Excellency the Secretary of State the assurance of his distinguished consideration.

WASHINGTON, April 27, 1920.

815.00/2178 : Telegram

The Secretary of State to the Minister in Nicaragua (Jefferson)¹⁰

WASHINGTON, May 4, 1920—5 p.m.

18. The Honduran Minister alleges that activities in the direction of an invasion of Honduras are taking place on the Nicaraguan frontier, and that some invasion has actually occurred.

Investigate carefully and if reports are substantiated, take energetic action with Nicaraguan Government for the suppression of these activities.

COLBY

815.00/2179 : Telegram

The Chargé in Salvador (Arnold) to the Secretary of State

SAN SALVADOR, May 4, 1920—8 p.m.

[Received May 5—3:55 p.m.]

14. The President informed me that he received a cablegram today from Salvadorean Minister at Washington stating that he was

* File translation revised.

¹⁰ The same, *mutatis mutandis*, to the Chargé in Salvador; the telegram was also quoted, May 10, to the consul in charge of the Legation in Honduras, for his information.

informed by Honduran Minister at Washington that [of] contemplated armed invasion of Honduras. The President requests me to emphatically deny the report as it is his firm intention to preserve the friendly relations which happily exist between the two countries. Troops have been sent to the frontier to guard against possible revolutionary movement of Arturo Araujo who is reported to be on frontier fomenting a revolution. President said that Arturo had received aid from the Honduran Government in his revolutionary aims. Doctor Reyes Arrieta Rossi new Salvadorean Minister at Honduras is in Tegucigalpa and hopes to settle all questions diplomatically.

ARNOLD

815.00/2182: Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, May 8, 1920—11 a.m.

[Received May 9—10:30 a.m.]

15. Department's May 4, 5 p.m. Am informed that only small band of Honduran bandits may be operating on the frontier. Am satisfied the President can arrange matter with the Honduran Minister here.

The President suggested to Honduran Minister that his Government grant general amnesty to all exiles. This the Honduran Minister is communicating to his Govt.

JEFFERSON

815.00/2186: Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Secretary of State

TEGUCIGALPA, May 10, 1920—5 p.m.

[Received May 15—11:25 a.m.]

40. Honduran Government requests me to inform the Department of State that from all the information which has been received from the Minister of Honduras in Salvador there is every evidence that the Salvadorean Government is preparing to invade Honduran territory possibly under the pretext of Honduras having assisted Araujo in his revolutionary movement, which is untrue. . . . I recommend the Department's immediate action and attention.

LAWTON

715.1715/159 : Telegram

The Secretary of State to the Minister in Nicaragua (Jefferson)

WASHINGTON, June 2, 1920—2 p.m.

21. Department's January 24, 6 p.m., January 29, 1 p.m.,¹¹ March 3, 6 p.m., May 4, 5 p.m.

American Chargé Tegucigalpa informs Department that 280 armed Honduran rebels crossed Nicaraguan frontier, invaded Honduras and were repulsed. In view of the fact that this expedition was organized in a relatively densely inhabited section of Nicaraguan territory and in view of the further fact that the Honduran Government had word of a contemplated invasion several days before the actual incursion occurred, it is difficult for us to assume that the Nicaraguan Government was without knowledge of this contemplated expedition. The Department is further informed that the Government of Nicaragua is refusing to forward to Tegucigalpa the telegrams of the Honduran Minister at Managua. You are instructed to inform the Minister for Foreign Affairs of Nicaragua of the painful impression which this invasion of a friendly state has made on this Government and at the same time you are again to impress upon the Government of Nicaragua the importance of taking measures to prevent any repetition of such an unfortunate occurrence. You are also requested to report to the Department whether in your opinion, the Nicaraguan Government is making any serious effort to prevent such occurrences, which have all the appearances of conspiracies against Honduras hatched on Nicaraguan soil.

COLBY

715.1715/161 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, June 9, 1920—2 p.m.

[Received 11:25 p.m.]

18. Department's June 2, 2 p.m. On investigation I find reports to the Department concerning recent invasion of Honduras by Honduran rebels from Nicaragua to be exaggerated. It appears that about 50 Honduraneans residing near the Nicaraguan border who were poorly armed banded together and invaded Honduras in the direction of San Marcos de Colón and that they were led by a former official of that place. The principal Honduran exiles in this country were all in Managua on that day.

¹¹ Telegram of Jan. 29 not printed.

While I do not believe Chamorro had knowledge of that expedition I believe his sympathies are with the Membreño people, also I believe that he has not recently aided the Honduran exiles. He very much desires that the President of Honduras give a general amnesty to all exiles in order that he may order them sent from here to Honduras. He stated that owing to the extensive area it would be impracticable to police the frontier with less than three or four hundred men and this would be an unjust and unnecessary expense for this Government.

Minister of Honduras to Nicaragua informed me that all of his telegrams to and from Honduras were promptly forwarded and received.

I urged upon the President the necessity of sending from the country any Honduran exile that disobeyed his concentration orders. I am in close touch with the Honduran Minister here and shall use my good offices to help him bring about an amicable settlement of the differences between the two Governments.

JEFFERSON

815.00/2204

The Acting Secretary of State to the Chargé in Honduras (Belden)

No. 374

WASHINGTON, July 9, 1920.

SIR: The Minister of Honduras in Washington has advised the Department that he is informed that General Lee Christmas has been in close touch during his recent visit to the United States with ex-President Bertrand, now in New York, and with Colonel Alvarado, in New Orleans, as well as with other Honduran revolutionists. Señor López Gutiérrez stated further that he was convinced that the present journey of General Christmas to Guatemala, nominally as the representative of an American company, is merely a pretext for a revolutionary attempt against the Honduran Government. The Minister has added that it was ascertained after General Christmas' last visit to Honduras that he had been in close touch with the revolutionary leaders who still remained there, and he said that it was for this reason that he was not permitted to land when he next arrived at Amapala.

General Christmas has admitted to the Department recently that he has been in close touch with the Honduran revolutionists now residing in this country, and he has insinuated that if the Department did not afford him assistance in the claim which he wished to present to the Honduran Government for alleged damages caused him by his recent deportation from that country, he would be willing to forfeit his American passport and join the Honduran revolutionists in an

attempt to overthrow the Government of President López Gutiérrez. The Honduran Minister here has also informed the Department that a new revolutionary leader from Honduras has recently arrived in the United States in the person of Don Joaquín Bonilla, son of the ex-President of that name. The Minister evidently believes that it is the purpose of the Honduran revolutionists in the United States to effect a concerted revolt on the north shore of the Republic, and that the recent labor agitation there has been caused by revolutionary propaganda as a preliminary step in this direction.

The Department desires that you advise it whether you are able, from the information at your disposal, to confirm the statements made by the Minister, and also to advise the Department, by telegraph if necessary, of all developments in Honduras which appear to have a revolutionary character. The Department likewise desires you to keep informed so far as possible of the movements of General Lee Christmas, who, it is now understood, is *en route* to Guatemala, and to report to the Department any evidence which you may discover tending to furnish proof of General Christmas' connection with Honduran revolutionists in Central American countries.

I am [etc.]

NORMAN H. DAVIS

815.00/2204 : Telegram

The Chargé in Honduras (Belden) to the Secretary of State

TEGUCIGALPA, July 11, 1920—5 p.m.

[Received July 12—10:47 a.m.]

49. Serious rumors from all sections of the country and a very open dissatisfaction with the present administration cause me to apprehend a revolutionary movement shortly. Present Government is weak and has lost its financial credit and many former friends and the general situation is very serious.

BELDEN

815.00/2215a : Telegram

The Acting Secretary of State to the Chargé in Honduras (Belden)

WASHINGTON, July 12, 1920—7 p.m.

37. You are instructed to call upon the Minister for Foreign Affairs at the earliest opportunity and deliver to him in person the following *note verbale*:

"The Government of the United States has viewed with the deepest concern the recent revolutionary expeditions which have been organized along the boundaries of the Republics of Nicaragua and Honduras and of the Republics of Salvador and Honduras, and

which have culminated in armed invasions of the territory of two of these nations by revolutionary forces concentrated on neighboring and friendly soil.

It is evident that the peace and prosperity of Central America are seriously imperiled by the recurrence of these revolutionary attempts, for no nation can proceed with the orderly administration of internal affairs when it is confronted with the ever-present menace of revolution at its frontiers, and the tremendous drain on the finances of a nation so threatened, caused by the necessity of mobilizing additional forces to guard its boundaries, makes it impossible for it to devote the necessary funds to essential internal expenditures.

The Government of the United States considers that the continued safety of the republican form of government in this continent, a form of government in the development of which every American nation has shared, requires each American Republic to assure itself that no revolutionary menace to the peace and security of a neighboring government is being organized within its borders. It therefore believes it to be its solemn duty to call to the attention of the Government of Honduras in the most earnest manner, what it had occasion recently clearly to proclaim, that it is convinced that it is the common obligation of all the American nations to enforce their neutrality laws with the utmost rigidity, to permit no revolutionary expeditions against other states to be fitted out within their territory, and to prohibit the exporting of munitions of war for the purpose of supplying revolutionists against neighboring governments."

For your information. Identical instructions are being sent to the Legations at Managua and Salvador.

The Department desires you also to intimate discreetly and informally to the President of the Republic that the Government of the United States is of the opinion that all political difficulties must be solved without disorder and that it will not look with favor on any government in Central America which is not brought into power by constitutional methods, or [which is] retained in power by extra Constitutional methods.

DAVIS

815.00/2210 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA [undated].

[Received July 29, 1920—midnight.]

25. Following just telegraphed to Legation at Tegucigalpa:

"July 29th, 2 p.m. Your July 28th, 4 p.m. President of Nicaragua stated to me that he suggested that President of Honduras select one of his most reliable military chiefs with 50 men to cooperate with Nicaraguan military chief and 50 men on the border to end revolutionary invasions by Honduran exiles. After that these

chiefs be permitted to enter either Nicaragua or Honduras as occasion may require. Inform President of Honduras that President Chamorro is in best disposition to bring about end of these invasions.

I desire that President Honduras continue to advise me of his intentions and movements thus enabling me to better cope with the situation. This also sent to the Department."

JEFFERSON

815.00/2210 : Telegram

The Secretary of State to the Minister in Nicaragua (Jefferson)

WASHINGTON, August 2, 1920—6 p.m.

32. Your 25, undated.

Department is gratified by proposal of President Chamorro which appears to prove that the Nicaraguan Government desires to end invasions fomented with revolutionary intent along the boundary. Department, however, believes provision to permit military forces of one Republic to enter territory of the other is unwise. Proposal for cooperation between the two Governments is approved with the exception of this provision. Legation at Tegucigalpa has been so informed.

COLBY

815.00/2224a : Telegram

The Secretary of State to the Chargé in Honduras (Spencer)

WASHINGTON, September 21, 1920—noon.

48. Department has received disquieting information regarding stability of present Government. Please cable Department whether in your opinion the situation is grave. The Department is advised that urgent representations have been made to the President by certain of his supporters to make changes in his Cabinet which they believe would strengthen the Government. Advise Department whether President shows any intention of taking such action and report whether any of the recommendations made by Young¹² have been adopted.

COLBY

815.00/2224 : Telegram

The Secretary of State to the Chargé in Honduras (Spencer)

WASHINGTON, September 23, 1920—5 p.m.

50. Department has received despatch from American Consul at Tegucigalpa dated September 1,¹³ reporting that revolutionists have

¹² Arthur N. Young, Financial Adviser to the Government of Honduras; for papers relating to Dr. Young's appointment and activities, see pp. 872 ff.

¹³ Not printed.

entered Honduranian territory from both the Nicaraguan and Salvadorean borders and have apparently made arrangements for uprisings to take place in Choluteca and other cities. Please cable brief report stating whether such uprisings have occurred and if so, whether there is any probability that the movement will become general in character.

COLBY

815.00/2230 : Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, September 25, 1920—11 a.m.

[Received September 30—9:55 p.m.]

65. Replying to your cipher telegram of September 21, noon, number 48. I send herewith report of situation.

1. The Government's belief, confirmed by information available, is that revolutionary movement of last week has failed.

2. Preliminary conversations with President regarding coalition cabinet show him favorable but indicate that steps in this direction would be very difficult before result of local congressional elections, end of October, is known.

3. Young has urged insistently upon the President and Minister of War that effective financial reform is impossible without radically reducing expenditures of the Department of War, which absorbs [two-]thirds of revenues and have shown no tendency to diminish during the past year. They have agreed in principle but declare such reduction impossible until the political situation improves which they expect after Nicaraguan election and local congressional elections end of October. On September 17, Minister of War promised Young he would reduce extraordinary forces in the interior and on Salvadorean border by 500 men at once and would gradually reduce garrison of Tegucigalpa from 800 to 300, but apparently recent events have prevented compliance. Government has accepted also in principle recommendation that civil police be substituted in large part for the army.

4. The President and the Cabinet have shown commendable disposition in adopting many of Young's recommendations for reorganization and economies in [government]. The President promises to give him [wide authority] in preparing budget for submission to Congress in January. However, under the present conditions money saved in civil branches only goes to increase spending capacity of War Department.

5. The present financial situation of the Government is very grave. [La] Ceiba, considered as chief source of revenue, has not produced for several weeks. The Government has about reached limit of ability to borrow from banks and private firms. It is to be feared that discontent of civil employees, whose salaries are two or three months or more in arrears, may lead them to disloyalty to

the present administration while the failure to pay soldiers would be even more serious.

6. I sent report of Young's work my despatch number 8, September 16, last.¹⁴

SPENCER

815.00/2237

The Chargé in Honduras (Spencer) to the Secretary of State

No. 15

TEGUCIGALPA, September 25, 1920.

[Received October 19.]

SIR: I have the honor to report on the revolutionary activities in different parts of the republic which have taken place during the past two days.

There had evidently been a plan formulated for some time that the revolution should break out on the date fixed, namely yesterday, but the secret was known to Government officials as well as to the organizers, and while the public was wondering from what point news would first come of an outbreak, Tegucigalpa was not a little astonished to learn that yesterday afternoon General Cárcamo, Juan Planas, Carlos Laínez and J. de Roques had been quietly arrested and lodged in the penitentiary. This wise move on the part of the Government completely blocked all further activities. It showed also very clearly to everyone that the President and Cabinet had a clear knowledge of what was going on. There were a few other arrests of minor importance.

Near La Ceiba there was a conflict between a small band and Government troops, but from the account given out by the President's office, it was not serious. In two other sections military stations were attacked, but advance information enabled the Government troops to fight off the attacking force.

The talk of Tegucigalpa today is that, after so much preparation for a revolution, which was organized by a small body of malcontents, working almost a year, this effort, skillfully nipped in the bud by the Government, was nothing short of ridiculous.

I have [etc.]

WILLING SPENCER

815.00/2229 : Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, September 28, 1920—4 p.m.

[Received September 29—2:30 p.m.]

64. Your cipher telegram 50, September 23, 5 p.m. After a thorough examination I do not believe there are revolutionists in

¹⁴ Not printed.

any number now assembled on either Nicaraguan or Salvadorean frontier. About September 1st a movement was on foot to enter from Nicaragua but nothing serious developed.

The President has assured me as late as day before yesterday that he is perfectly satisfied with the cooperation of the Governments of Guatemala and Salvador but he does not feel that the President of Nicaragua is friendly.

There are several Honduran revolutionists living in Managua but no particular indications of any movement general in character.

SPENCER

**APPOINTMENT OF ARTHUR N. YOUNG AS FINANCIAL ADVISER
TO THE GOVERNMENT OF HONDURAS**

815.51/383a : Telegram

*The Secretary of State to the Consul in Charge of the Legation in
Honduras (Lawton)*

WASHINGTON, December 15, 1919—10 a.m.

Department desires that if possible during an informal conversation with President Bográn you discreetly discuss with him the desirability of having a report prepared of the Honduran financial system with a view to eventually placing Honduran finances on a satisfactory basis. It is suggested that if possible Bográn request the Department for the services of an expert to make the report referred to.

LANSING

815.51/384 : Telegram

*The Consul in Charge of the Legation in Honduras (Lawton) to
the Secretary of State*

TEGUCIGALPA, December 26, 1919—2 p.m.

[Received December 27—11:50 a.m.]

In reply to your telegram December 15, 10 a.m. Bográn approves the plan but as his term of office is so short suggested that I discuss the matter with the President-elect with the result that General López¹⁶ asks that the Department of State suggest some person suitable and cable conditions under which he could be sent to Honduras.

LAWTON

¹⁶ Gen. Rafael López Gutiérrez.

815.51/390 : Telegram

The Secretary of State to the Consul in Charge of the Legation in Honduras (Lawton)

WASHINGTON, March 23, 1920—6 p.m.

20. Your February 7, 11 a.m. and Department's February 16, 3 p.m.¹⁷

Department has been in communication with Prof. E. W. Kemmerer, in connection with obtaining his services as Financial Expert for Honduras. He is a leading expert in banking and finance and recently did most excellent work of this kind in Guatemala. He has expressed a willingness to go to Honduras and to leave the United States early in June. Department would be glad to be informed as to whether Prof. Kemmerer is acceptable to Government of Honduras and desires to learn what compensation the Government of Honduras would be willing to pay him.

COLBY

815.51/391 : Telegram

The Consul in Charge of the Legation in Honduras (Lawton) to the Secretary of State

TEGUCIGALPA, April 17, 1920—3 p.m.

[Received 11:25 p.m.]

38. Department's March 23, 6 p.m. The Honduran Government offers Professor Kemmerer one thousand American dollars a month not exceeding six [months] and five hundred dollars travel expenses. Full report by mail.¹⁸

LAWTON

815.51/395 : Telegram

The Secretary of State to the Chargé in Honduras (Belden)

WASHINGTON, May 28, 1920—3 p.m.

32. Kemmerer unable to accept. Department is able, however, to propose most satisfactory substitute. Dr. A. N. Young of the Trade Advisor's office and former professor at Princeton has had considerable experience in Latin-American finance and is well acquainted with Spanish. Department recommends him most favorably and if acceptable, he will arrive at Tegucigalpa on or about July 20. Advise Department as soon as possible.

COLBY

¹⁷ Neither printed.

¹⁸ Not printed.

815.51/397 : Telegram

The Chargé in Honduras (Belden) to the Secretary of State

TEGUCIGALPA, June 3, 1920—3 p.m.

[Received 9:55 p.m.]

47. Department's telegram number 32 May 29 [28], 3 p.m. Doctor Young will be acceptable under the same conditions as previously stated.

BELDEN

815.51/397

The Secretary of State to the Chargé in Honduras (Belden)

No. 368

WASHINGTON, June 9, 1920.

SIR: With reference to your telegram of June 3, 3 p.m., by which you reported to the Department that Dr. Arthur N. Young would be acceptable to the Honduran Government under the same conditions as previously stated, the following outline of Dr. Young's career is given for your information:

Dr. Young, who is at present Regional Economist in the Office of the Foreign Trade Adviser of the Department, received his Ph.D. in Economics and Finance at Princeton in 1914. Thereafter he was Instructor and Professor of Economics for three years. In 1917 he served as Financial Expert for the Doheny Commission to study the Mexican situation, and subsequently as Adviser on Taxation to the Commission on Administrative and Financial Reorganization of the Mexican Government. In 1918 he was Trade Expert for the War Trade Board; from 1918-1919 he was Trade Commissioner of the Department of Commerce to investigate banking and finances in Spain. He has been in the State Department since December 1919. He is the author of several books, including one on the finances of the Federal District of Mexico (1918) and one on Spanish finances and trade, now in press.

The Department believes it would be difficult to find a man better equipped for this post than Dr. Young. He combines a thorough economic and financial training with actual practical work in investigating Latin American financial conditions. As an economist, Dr. Young has an unusually high reputation for a man of his age. Furthermore, he speaks Spanish fluently and is thoroughly familiar with Latin American characteristics and institutions.

The success of Dr. Young's mission in Honduras will obviously be greatly facilitated by your good offices, and to this end you are instructed to give him access to all material in the possession of the Legation of an economic, or social nature.

You may inform the Honduran Government that Dr. Young expects to sail on July 24, next, from San Francisco on the steamer *Natchez* to Amapala.

I am [etc.]

BAINBRIDGE COLBY

815.51/403

The Chargé in Honduras (Belden) to the Secretary of State

No. 680

TEGUCIGALPA, August 5, 1920.

[Received August 24.]

SIR: In confirmation of my cablegram of today's date¹⁹ I have the honor to report that Dr. Arthur N. Young, accompanied by his wife and two children, arrived in this city at one o'clock on Sunday morning.²⁰ On Monday I presented Dr. Young to the Minister For Foreign Affairs and in the afternoon of the same day in company with the Minister Dr. Young and I paid our respects to the President.

A few days previous to Dr. Young's arrival I received the Department's instruction No. 368 of June 9th. last relative to his mission here and delivered a memorandum to the Minister For Foreign Affairs giving the information concerning Dr. Young contained in the Department's instruction. The contents of this memorandum were published in the daily papers.

Dr. Young has been well received and has commenced his studies and it is generally hoped that he will be able to assist the government and to accomplish some real good.

In his conversation with the President the latter expressed his satisfaction upon the arrival of Dr. Young and his desire to place everything at the Doctor's disposal to facilitate him in his work. The President dwelled upon the necessity of introducing reforms in the administration of the governmental departments to the end of reducing the expenses but he especially stated that he strongly wished to find some means of doing away with the system now maintained whereby the sale of *aguardiente* (the native alcoholic beverage) was an important source of revenue to the government as he was most anxious that the sale of this liquor be prohibited and that, therefore, he desired that the Dr. make a special study as to the manner in which a new source of revenue could be obtained to offset the loss which would result from the introduction of prohibition in the sale of *aguardiente*.

It is as yet too soon to express an idea as to what success will ultimately result from Dr. Young's visit.

I have [etc.]

PERRY BELDEN

¹⁹ Not printed.

²⁰ August 1.

S15.51/407

The Chargé in Honduras (Spencer) to the Secretary of State

No. 19

TEGUCIGALPA, September 29, 1920.

[Received October 19.]

SIR: I have the honor to enclose herewith a memorandum given me by Dr. Young, Financial Advisor to the Republic of Honduras, of his conversation had at my suggestion with the President yesterday.

The memorandum is so exact that I am glad to transmit it in its original form.

I have [etc.]

WILLING SPENCER

[Enclosure]

Memorandum by the Financial Adviser to the Government of Honduras (Young) of a Conversation with President López Gutiérrez

[TEGUCIGALPA,] September 28, 1920.

I advised the President that the existing financial situation is very grave, pointing out the serious effects of the non-receipt of revenue from the custom house at La Ceiba, owing to the strike, and indicating that the Government has about reached the limit of its ability to borrow from the banks and from private commercial houses. I mentioned to the President that the peril to the Government was less likely to be from revolutionary movements such as the one coming to a head on September 24th-25th,²¹ than from the financial situation. At this point the President mentioned that he considered that the attempted movement had been a thorough failure. He expressed the opinion that if the Government needed more funds it might be able to obtain a loan in the United States, but I emphasized the view that until the fundamental financial situation had become sound it would be idle to think of borrowing money abroad.

The discontent of unpaid civil employees, whose salaries are in arrears for two or three months or more, may become a source of peril to the Government, I pointed out. The President replied that in previous administrations there had been times when employees had not been paid for nearly a year without serious results.

I proposed that the President should call a special conference to consider means for effectively reducing the expenditures of the War Department, at which should be present the Minister and Subminister of War, the Minister of Hacienda, Señor Suazo and myself. I suggested holding such a conference within two or three days to begin to formulate a definite program even though it might not be possible to reduce the expenditures of the War Department for a

²¹ See despatch no. 15, Sept. 25, from the Chargé in Honduras, p. 871.

brief time. However, the President was disposed to postpone calling such a conference for five or six days. He expressed the view that within two to four weeks it should be possible to commence a radical reduction in the army. He expressed the view that at present he needed very few forces on the border of Salvador, but that it was necessary to maintain large forces on the border of Nicaragua. He believes that if President Chamorro should imprison or concentrate in Managua those guilty of conducting marauding expeditions against Honduras the greater part of the difficulty would be solved. Commenting on the Nicaraguan election,²² the President believed that three-fourths of the people of the country were opposed to Chamorro, but that the latter's control of the elections might be sufficient for him to win. In that event he anticipated a revolutionary movement against Chamorro on the part of the coalition forces.

The President admitted the point I made that without radical reforms in the Department of War no fundamental financial reform was possible since any money saved in the other departments would only go to increase the spending capacity of the War Department. He accepted my proposal that I proceed with the elaboration of a definite program of economies in the Department of War to serve as a basis for discussion in the conference of next week. In this connection I expressed the belief that the expenditures of the War Department were not adequately accounted for, pointing out that an army as large as that existing ought to be had at considerably less expense.

I also mentioned the possibility of fixing a definite limit month by month, on a declining scale, to the expenditures of the Department of War, and the President expressed his approval in principle.

[No signature indicated]

S15.51/408: Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, November 3, 1920—7 p.m.

[Received 11:45 p.m.]

77. Semiofficial newspaper published yesterday afternoon *acuerdo* dated October 23 fixing War Department expenditures for November at 166,000 pesos representing probable economy of over 200,000 compared with recent months. Government adopted these projects with only minor alterations and considers complete adoption of reformed budget with important economies in other departments during this week.

SPENCER

²² For papers relating to this subject, see vol. III, pp. 292 ff.

TREATMENT OF FORMERLY GERMAN-OWNED PROPERTY ²⁵

763.72112Am1/118

The Secretary of State to the Honduran Minister (López Gutiérrez)

WASHINGTON, May 29, 1920.

SIR: I have the honor to refer to the recent conversations between yourself and officials of the Latin American Division and the Foreign Trade Adviser's Office of this Department in regard to the status of the formerly German owned properties at the port of Amapala. In these conferences you informed members of this Department that your Government desired to ascertain the opinion and the wishes of this Government in regard to the disposition of the properties referred to. It is felt that the problem of disposing of the properties at Amapala is entirely different from the problem of disposing of other formerly German owned properties in the interior of Honduras. Because of the control which any company monopolizing the port facilities at Amapala must exercise over the entire commerce of Honduras, it would seem most desirable, not only in the interests of foreign merchants, but in the interests of the commercial development of Honduras itself, that these port facilities should be placed in the hands either of the Government, or of some agency acting under strict regulations which will assure fair treatment to all commercial firms whose goods pass through the port.

If the Government of Honduras should elect to retain and manage these port properties it would seem very desirable that they should be placed under the administration of an experienced business man. If your Government desires, this Government would be glad to render its assistance in finding a person suited by training and character for this position.

Accept [etc.]

BAINBRIDGE COLBY

763.72113/1392

*The Acting Secretary of State to the Honduran Minister
(López Gutiérrez)*

WASHINGTON, December 30, 1920.

SIR: I have the honor to acknowledge the receipt of your note of December 27,²⁶ advising me that you have received a telegram from your Government stating that the Treaty of Peace with Germany will probably be approved when it is presented to the Congress of

²⁵ For previous correspondence relating to this subject, see *Foreign Relations*, 1919, vol. II, pp. 400 ff.

²⁶ Not printed.

Honduras in January next, for ratification, and that all matters relating to German residents of Honduras will be taken up for discussion at the same time.

In this general connection you state that your Government purposes to introduce in the Congress of Honduras a bill establishing a monopoly in favor of the State of the business of agencies in the port of Amapala, the Government endeavoring to grant fair compensation to the parties interested for properties taken over from them. You express the hope that in view of the desire of your Government to act in accord with the Government of the United States, this solution of the question will prove acceptable to the Department.

In reply, I have the honor to inform you that the Department of State considers that the matter is one to be determined by the Government of Honduras for itself and trusts that a solution may be arrived at which will be satisfactory to the Government of Honduras. The Department of State of course understands that the Government of Honduras would not be satisfied with a solution which would not be just to all parties concerned.

Accept [etc.]

NORMAN H. DAVIS

BOUNDARY DISPUTE WITH GUATEMALA

(See volume I, pages 311 ff.)

CONFERENCE AT AMAPALA BETWEEN THE PRESIDENTS OF HONDURAS AND NICARAGUA—AGREEMENT OF NOVEMBER 17, 1920

(See volume I, pages 318 ff.)

INDEX

INDEX

- Abyssinia. *See* Ethiopia.
- Abyssinian Corp., Ltd., mineral concession in Ethiopia, 249-250, 251-252
- Accorsi Mission to Ecuador, 174, 180-181, 183-185
- Alien Property Custodian funds, U. S. retention, 271, 340, 388, 390, 391, 392, 417, 430-431, 434
- All America Cables, Inc., concession in Cuba, 59-60, 61-68
- Anglo-American Oil Co., Ltd. *See under* Ethiopia.
- Anglo-Japanese Alliance, proposed renewal, 679-680, 682-684, 685-686; Chinese protest, 684-685; U. S. suggestions, 680-682
- Arbitration: Bryan Treaty, cited, 681; Hague conventions, cited, 104-105; Knox Treaty, cited, 681; McGivney and Rokeby Construction Co. claim, discussion, 92-99, 100-105
- Asociacion de Agricultores del Ecuador. *See* Ecuador: Cacao Association.
- Austria: Reparations, 407, 411-412, 413; ships, U. S. sale of, 530
- Baghdasarian, Hagob, mineral concession in Ethiopia, 245-247, 248-252
- Belgium: Army, participation in occupation of Frankfort and other cities, 320-321, 322; conditions in, 402
- Bonds. *See* Loans.
- Boulogne protocol on distribution of reparations coal, 417-419, 429-430
- Boundary disputes: Dominican Republic-Haiti, submission to papal arbitration, 113, 131; Honduras-Nicaragua, 856, 857-858
- Brazil, claim to former German ships, 507-508, 509, 510, 511-512, 514-515, 520, 524, 527, 528, 529
- Brown Bros., proposal for refunding Ecuadoran national debt, 182, 185-191, 193, 204, 205, 206
- Brussels conference of technical experts on reparations, 441, 442-445
- Bryan Treaty, cited, 681
- Bulgaria, reparations, 407, 413
- Cable concessions. *See under* Cuba.
- Cablegrams, British denials of alleged interference, 699-704
- Cables, former German, 699, 700
- Cables of Western Union Telegraph Co., U. S. measures to prevent landing in United States, 686-689, 691-693, 694-698; British cooperation, 690-691, 692, 693, 697-698
- Cacao Association. *See under* Ecuador.
- Capitulations: British proposal to terminate in Egypt, 218-226, 227, 228; status in Palestine, 675-678
- Censorship (*see also under* Dominican Republic), alleged British censorship of U. S. cable messages, 700-701, 702
- China: Allied exception from disposal of German interests in, 379, 380, 381, 384; Anglo-Japanese Alliance, protest against renewal, 684-685
- Claims (*see also under* Cuba; Dominican Republic; Great Britain: U. S. goods; and Haiti), U. S. claims against Germany, 388, 389-390, 391-392, 392-393
- Commercial Cable Co. of Cuba, concession, 58, 66-67, 696
- Commissions, committees, etc., international:
- International committee of jurists, U. S. unofficial representation, 348, 353-360
 - Reparation Commission. *See* Reparation Commission.
- Commissions, U. S. *See under* Germany and Hungary.
- Conferences, international (*see also under* Reparations): Electrical Communications, International Conference on, 345, 687, 688, 690, 699-701; San Remo conference, 326, 437
- Constantine, recall to Greek throne, 705-710
- Costa Rica, oil concessions, 665
- Crowder, Gen. Enoch H., mission to Cuba, 1-2, 21-22, 41-43
- Cuba:
- Arbitration of McGivney and Rokeby Construction Co. claim, discussion, 92-99, 100-105
 - Bank moratorium, 44-46, 47, 49, 50, 55, 81-82
 - Cable concessions: All America Cables, Inc., 59-60, 61-68; Commercial Cable Co. of Cuba, 58, 66-67; Western Union Telegraph Co., 60-61, 67-68, 69

Cuba—Continued.

- Claim, McGivney and Rokeby Construction Co. *See under* McGivney and Rokeby Construction Co. contract, *infra*.
- Claims, pecuniary, convention for arbitration of, Cuban nonadherence, 93-94, 97-98
- Crowder, Gen. Enoch H.: Observer at elections, disapproval of President Menocal, 1-2, 21-22; personal representative of President Wilson, appointment, 41-43
- Economic law, proposal and discussion, 49-50, 51
- Elections, 1920 presidential: Disorders, 21, 26, 30, 31, 36
 - Fairness, arrangements and guarantees for: Cuban statements, 12, 15-16, 19-20, 34-37; U. S. attitude and statement, 12, 13-14, 15, 16-19, 20, 30-32
- Frauds, pre-election, efforts to prevent, 29-30, 33
- Military Supervisors, influence on elections, 25-26, 29-30, 30-31, 34, 36
- Nominations, 12-13, 15, 19, 24
- Non-participation of Liberal Party, U. S. disapproval, 9-10, 12, 19, 20
- Protests, possible, to United States, U. S. objection, 39-41
- Returns, publication of, 28, 32, 37, 38-39, 41-43
- Supervision by United States, U. S. refusal, 2-3, 12, 13-14, 18, 19, 20-21, 39
- U. S. marines: Augmentation for protective purposes, U. S. refusal, 23-24, 24-25, 27, 29; observers, U. S. refusal to permit assignment as, 22-23
- Electoral law, amendment: Adoption, 1-3, 6-7; explanatory memoranda, 7-9, 10-12; Liberal Party opposition, 1, 3; text, 3; U. S. opposition, 2, 4-6, 9
- Embargo on exportation of U. S. currency, recommendation of Special Adviser for removal, 56
- Emergency currency certificates, proposed issuance, 47-48, 53-54
- German ships, former, claim to, 525-528, 536, 537-539
- Habana:
 - Port, clearance of congestion, 43, 53, 75, 77, 78, 81
 - Sanitation. *See* McGivney and Rokeby Construction Co. contract, *infra*.
- Hague conventions on arbitration, Cuban attitude toward, 104-105
- Loan, Speyer, arrangements for payment, 84, 88, 90

Cuba—Continued.

Loan negotiations:

- Authorization: Cuban bill for, 49; Special Adviser, attitude, 54-55, 56
- Election results, ill effects of delayed announcement, 42-43
- Rice importations, efforts to have loan cover, 82
- Special Adviser, appointment and recommendations, 49, 50-51, 52-57
- McGivney and Rokeby Construction Co. contract:
 - Claim: Arbitration, proposal for, 92-99, 100-105; direct settlement, 105-108
 - Text, 83-92
- Military Supervisors, influence on elections, 25-26, 29-30, 30-31, 34, 36
- Moratorium, bank, 44-46, 47, 49, 50, 55, 81-82
- Platt Amendment, basis for sanitation work, 84, 86, 87, 93, 95, 96, 100-101
- Political leaders, proposed mission to Washington, U. S. disapproval, 6, 19, 20-21, 41
- Rathbone, Albert, Special Adviser on loan negotiations, 49, 50-51, 52-57
- Rice importations: Cuban refusal to accept U. S. shipments, 70-71; Government decrees, 72-83
- Sanitation (*see also* McGivney and Rokeby Construction Co. contract, *supra*), need for reform, 43
- Special Adviser on loan negotiations, 49, 50-51, 52-57
- Speyer loan, arrangements for payment, 84, 88, 90
- Sugar prices, decline, 45, 47, 48-49, 50-51, 55-56, 56-57
- Treaties, conventions, etc.: Claims, pecuniary, nonadherence to convention for arbitration of, 93-94, 97-98; Hague conventions on arbitration, attitude, 104-105; treaty with United States (1903), basis for sanitation work, 84, 86, 87, 93, 95, 96, 100-101
- Zayas, Alfredo, coalition candidacy with Conservative Party, 1, 13, 19, 20, 24
- Cuban American Telephone and Telegraph Co., cable landing permit, 696, 697, 698
- Deutsch-Amerikanische Petroleum Gesellschaft tankers. *See* Germany: Ships, tank.
- Dominican Republic:
 - Advisory Council of Dominicans, 116, 117-119

Dominican Republic—Continued.

Banditry, suppression of, 120-121, 157
Bond issue of 1918, provision of funds for interest and amortization:

Collections, 114, 124, 128

Executive orders 193 and 272, refusal of State Dept. to consider as binding on General Receiver of Dominican Customs, 132-135, 151-154; Navy Dept., attitude, 138-144

Treaty of 1907 with United States, Dominican funds, received under, possible diversion for interest and amortization, 133, 152, 153

Boundary dispute with Haiti, submission to papal arbitration, 113, 131.

Censorship:

Abolition, request of Advisory Council of Dominicans, 117

Extent, 160-161

Propaganda, spread of, 121-122

Relaxing of, Executive order 385 regarding:

Issuance, 162-164

Prosecutions under, 122, 164-165, 165-166, 167, 168, 169; Latin American attitude, 165, 166, 167; suspension and remission of sentences, 147, 165, 166-168

Cancellation, State Dept. request, 147

Sedition and defamation, Executive orders 572 and 573 regarding: Promulgation, 169-172; annulment, 156, 172-173

Claims Commission of 1917:

Activities, 114, 127-128

Funds, provision of. *See* Bond issue of 1918, *supra*.

Commission of Dominicans. *See* under U. S. control, *infra*.

Communications, improvement of, 130-131

Customs Receivership:

Collections, 113, 122, 157-158, 159
Customs Administration loan, payments on, 128

Segregation of funds for payment of bond issue of 1918, attitude of Navy Dept., 138-144; State Dept., 132-135, 151-154.

Education, advancement of, 111, 125-126, 129-130

Embargo on rice and cotton, 155

Guardia Nacional, improvement of, 121

Henríquez y Carvajal, Francisco, views on Commission of Dominicans, 145*n*

Internal revenue collections, 123, 127, 159

Dominican Republic—Continued.

Land law, general, insurance of validity of titles, 112-113, 131, 159

Loans (*see also* Bond issue of 1918, *supra*): Customs Administration loan, payments on, 128; public works, need of loan for, 113, 124, 155, 157-160

Military Governor, reports, 111-115, 116-131, 132, 155-160

Provost Courts: Abolition, requests for, 117, 147; activities, investigation of, 160-161

Public works, need of loan for, 118, 124, 155, 157-160

Sanitary measures, 124-125, 160

Tariff rates, new, effect, 113, 122, 127

Treaty of 1907 with United States, cited, 133, 134-135, 136, 139, 140, 143, 145, 152, 153, 154

U. S. control, arrangements for withdrawal:

Accomplishments of Military Government, 126-131; publication, 132

Commission of Dominicans to aid in drafting basic laws: Dominican attitude, 115-116, 119, 146, 150, 156; formation, 110-111, 115, 156-157; Military Governor, attitude, 115, 116-120; personnel, 111, 137-138, 146, 147-149, 150-151, 156-157; public announcement, 137-138, 145, 155-156

Military Governor, attitude, 111, 115, 116-120

U. S. policy: Desirability of statement, 119-120; proclamation of, 137, 145, 155-156; reception in Dominican Republic, 146, 150, 156

Drugs. *See* under Reparations.

Dyestuffs. *See* under Germany and Reparations.

Ecuador:

Asociacion de Agricultores del Ecuador. *See* Cacao Association, *infra*.

Cacao Association:

Indebtedness, 208-210

Liquidation, possibility of, 212

Proposals for maintenance of credit, 206-207, 210-211, 212; Ecuadoran attitude, 205, 207, 211, 212-213; U. S. attitude, 205, 211, 212

Debt, national, proposal of U. S. banks for refunding, 182, 185-191; Ecuadoran attitude, 206; U. S. attitude, 182, 185, 193, 204, 205

Exchange restrictions, recommendations for lifting, 210, 212

Ecuador—Continued.

Guayaquil & Quito Railway Co.:

Bonds, payment of interest on:

Daily deposits from customs receipts: Information, difficulty in securing, 196, 197, 199-200, 200-201; remittances, U. S. concern over delay, 202, 203, 205; resumption, 191-192, 194-195, 202-203, 204; sufficiency, question of, 195-199, 200, 201; withdrawal for remittances only, assurances, 203, 205

Default, 179, 181

Misunderstanding over coupons, 193

Payments, 192

Foreclosure by foreign bondholders: President's desire for, 203, 205-206; U. S. representations, 203-204

Reimbursement for advances for bond service, delay, 192-193

Sale, Ecuadoran desire for, 181

Loans:

Brown Bros., proposal for refunding national debt, 182, 185-191; Ecuadoran attitude, 206; U. S. attitude, 182, 185, 193, 204, 205

Guayaquil & Quito Railway Co. *See* Guayaquil & Quito Railway Co.: Bonds, *supra*.

Italian Government, project:

Accorsi Mission, offer: Proposals, 174, 180-181; reported Italian approval, 180, 183-184; status, 184-185

Ecuadoran authorization for *ad referendum* contract, 175-178

U. S. attitude, 179, 181

Mercantile Bank of the Americas: Financing of Cacao Administration. *See* Cacao Administration, *supra*.

Proposed loan, 181, 182

Real estate, use as security, Ecuadoran proposal, 205

Salt bonds, deposits and payments on, 191-192, 194, 202, 203, 204

U. S. bankers, bill authorizing negotiations with, 175, 179

Natural resources: Italian company, formation to develop, 184-185; Italian preferential position in development, proposed, 178, 183-184

Oil exploitation, restrictive measures, 179, 213-215

Railways:

Construction, proposed advance of funds by Italians, 174, 176-178, 180-181, 184

Ecuador—Continued.

Railways—Continued.

Guayaquil & Quito Railway Co. *See supra*.

Salt bonds, deposits and payments on, 191-192, 194, 202, 203, 204

Tobacco monopoly, proposed cession to Italian company, 174, 176-178, 180, 184

Egypt:

Capitulations, British proposal to end, 218-226, 227, 228; U. S. attitude, 218, 228

Consular courts, British proposal for transfer of functions to Mixed Courts, 216, 217-218, 218-227; U. S. attitude, 218, 228

Mixed Court of Appeals, appointment of U. S. judge to vacancy: British attitude, 216-217, 226-227; U. S. attitude, 216, 218, 227-228

Mixed Courts, British proposal for reconstitution and assignment of functions of consular courts, 216, 217-218, 218-227; U. S. attitude, 218, 228

El Salvador. *See* Salvador.

Electrical Communications, International Conference on, 345, 687, 688, 690, 699-701

Embargoes: Cuban, on exportation of U. S. currency, 56; Dominican, on rice and cotton, 155

Enemy property:

Alien Property Custodian funds, U. S. retention, 271, 340, 388, 390, 391, 392, 417, 430-431, 434

Treatment in Guatemala, 755-758; Haiti, 776, 782, 790, 799, 800, 824; Honduras, 878-879

Ethiopia:

Abyssinian Corp., Ltd., mineral concession, 249-250, 251-252

Anglo-American Oil Co., Ltd., oil rights: Assignment from Baghdassarian concession, 245-247, 248-250; reassignment in new Baghdassarian concession, 250-252; U. S. consular officer, assistance in protecting, 245, 247, 248, 250-252

Baghdassarian, Hagob, mineral concession, assignment of oil rights. *See* Anglo-American Oil Co., Ltd., *supra*.

Concessions. *See* Abyssinian Corp., Ltd., and Baghdassarian, Hagob, *supra*.

Consular courts, maintenance, 230-231, 235, 244

Oil rights. *See* Anglo-American Oil Co., Ltd., *supra*.

Ethiopia—Continued.

Treaty of commerce with United States (*June 27, 1914*): Negotiation and signature, 229-230, 231-241; notification of U. S. ratification and Ethiopian acknowledgment, 241-242; proclamation by United States, 242-243; text, 243-244

Finland, relations with Russia: Hostilities, 253-254, 256; Norwegian interest in Finnish-Russian boundary, 254, 255; peace treaty, signature and execution of terms, 256-257; U. S. refusal to offer advice, 253, 254, 255

France (*see also* Germany: Rhineland, occupation by Allied and Associated Powers and Reparations): Claims against Haiti, 827-828, 829-836, 841

San Remo oil agreement: Text, 655-658; U. S. representations, 658-659, 667-668, 672-674; British defense, 666-667

Sèvres (tripartite) agreement, 674-675

Geneva conference of Allied ministers, proposal and postponement, 436-440, 441

Germany (*see also* Reparations):

Armistice with United States: Basis for German liability for U. S. army of occupation costs, 333-334, 338-340, 343-345, 392, 405, 416-417, 419, 427, 428, 430-431, 434; continuance, 258, 334, 338, 343-344

Cabinet members, provocative speeches in Rhineland: Representations by Allied Powers, 335-336, 336-337, 340-341, 346; German attitude, 337-338; U. S. attitude, 335, 336, 337, 342-343, 346

Cables, former German, 699, 700

Darmstadt, occupation of. *See* Rhineland: Frankfort and other cities, *infra*.

Dyestuffs (*see also* under Reparations), U. S. purchases from cartel: Preliminary negotiations, 459, 460-461, 464, 467; Textile Alliance, representation of U. S. interests, 465, 469-470, 472, 476-477, 482; shipment, 478-479, 482

Export regulations. *See* Import and export regulations, *infra*.

Frankfort, occupation of. *See* Rhineland: Frankfort and other cities, *infra*.

Hanau, occupation of. *See* Rhineland: Frankfort and other cities, *infra*.

Germany—Continued.

Import and export regulations:

Charges of violation of Versailles Treaty, 273-274, 277, 279-280, 281, 284-286; U. S. attitude, 275, 276, 278, 288

Discussion with Allied Powers, bases proposed for, 273-274, 277; U. S. attitude, 275-276, 278

Measures recommended to Conference of Ambassadors, 279-282; U. S. attitude, 282-283

Protests of Allied Powers, 284-286, 287; German reply, 287-289; U. S. attitude, 286-287

Reference to Spa Conference, question of, 287-288, 289

U. S. insistence on being consulted regarding Allied representations, 288, 289

Property:

Retention by U. S. Alien Property Custodian, 271, 340, 388, 390, 391, 392, 417, 430-431, 434

Treatment in Guatemala, 755-758; Haiti, 776, 782, 790, 799, 800, 824; Honduras, 878-879

"Red" troops, internment in occupied territory, 317, 320

Reparations. *See* Reparations.

Representation, unofficial, at Washington, desire for, 258-259, 260-261, 267

Rhineland, occupation by Allied and Associated Powers:

Belgian army of occupation, participation in occupation of Frankfort and other cities, 320-321, 322

Food situation, 295

Frankfort and other cities, occupation by French troops, 307-308, 311, 313-314, 320-321, 322; Belgian attitude and participation, 318, 320-321, 322; British attitude, 317-318, 321-322, 323; German protests, 314, 315-316; Italian attitude, 318, 319-320, 322, 323; U. S. attitude, 318, 319, 324-325; withdrawal, French statement of position regarding, 323, 325-326

French army of occupation:

African troops, protest of use, 329-330

Occupation of Frankfort and other cities. *See* Frankfort and other cities, *supra*.

German troops:

Agreement for use in neutral zone, question of extension, 314, 322, 324-325, 326

Dispatch to Ruhr Basin. *See* Ruhr Basin, *infra*.

Germany—Continued.

Rhineland, occupation by Allied and Associated Powers—Continued.

German troops—Continued.

Internment in occupied territory, 298-299, 300-301, 302, 312

Organization, 293-294

Internment of German and "Red" troops in occupied territory, 298-299, 300-301, 302, 312, 317, 320

Neutral zone, troop movements in. *See* Frankfort and other cities, *supra*, and Ruhr Basin, *infra*.

Provocative speeches by German cabinet members: Representations by Allied Powers, 335-336, 336-337, 340-341, 346; German attitude, 337-338; U. S. attitude, 335, 336, 337, 342-343, 346

"Red" troops, internment in occupied territory, 317, 320

Rhineland High Commission:

French attitude toward, 289-291, 296-297

Internment of German and "Red" troops in occupied territory, policy, 298, 317; French attitude, 300; U. S. attitude, 298-299, 300-301, 302, 312, 320

U. S. observer: Expenses, arrangements for payment, 330, 331; report, 289-296; status, 327-329; appointment of Gen. Allen, 296-297, 325, 327-329

Ruhr Basin, dispatch of additional German troops to maintain order:

Application by Germany, 297, 303-305, 305-306, 308-311, 313

Approval by Great Britain, 297, 298, 299; United States, 297-298, 299-300, 302, 308, 313

Disapproval of France, 304, 305, 306-307, 313, 325

Disorders, 301-302, 303, 304, 307, 309

Dispatch of troops, 303, 305, 306, 307, 313, 326

Evacuation, question of: German assurances, 306, 309, 310, 311, 314, 315, 316, 324; guaranties for, discussion, 300, 301, 302, 304, 305, 309, 310, 311, 312, 313, 318; withdrawal of French troops from neutral zone, French offer, 323, 326

Germany—Continued.

Rhineland, occupation by Allied and Associated Powers—Continued.

Ruhr Basin—Continued.

Retaliatory occupation of German territory:

French intimidation, 291-292, 297, 298, 299-300, 301, 302, 304, 306-307, 308, 318, 324

French occupation of Frankfort and other cities. *See* Frankfort and other cities, *supra*.

Separation from Germany, alleged French desire, 291-292, 295-296, 297

U. S. army of occupation. *See* under Reparations, German: U. S. participation.

Rhineland High Commission. *See* under Rhineland, *supra*.

River shipping, appointment of U. S. arbitrator:

Nomination, 263, 264

Protests of Germany, 262, 265, 267-269, 271, 423; Conference of Ambassadors, attitude, 271-272; U. S. attitude, 262, 265-267, 268, 270-271

Waiver of protests and appointment of German delegates, 269-270, 271, 272-273

Ruhr Basin. *See* under Rhineland, *supra*.

Ships (*see also* under Reparations) taken over by—

Brazil: Brazilian claim, 507-508, 527, 529; Reparation Commission resolution, 509, 510, 514; U. S. support of claim, 508, 510, 511-512, 514-515, 520, 524, 528

Cuba: Cuban claim, 538-539; U. S. support, 525-528, 536, 537-538, 539

Peru, transfer to United States, 539-542

United States:

Bases for U. S. claim, discussion: Congressional resolution, 511, 517, 518-519, 519-520, 520-521, 522, 523, 524, 525, 530; Versailles Treaty, 509, 510, 516, 519, 520, 523, 524; Wilson-Lloyd George agreement, 391, 511, 516, 518, 519, 520, 523, 524, 525

Retention, U. S. attitude, 388, 391, 392, 417, 430-431, 434, 529, 531

Sales by United States, 516-517, 519, 529, 530

U. S. wartime shipping losses, 529-530, 531, 534-535, 544

Uruguay, U. S. support of claim, 535-536, 536-537

Germany—Continued.

- Ships, tank, of Deutsch-Amerikanische Petroleum Gesellschaft: Allocation, provisional, to— Allied Powers: Exemption, 543, 545, 546, 555-556; cancellation of exemption, 545, 546, 547; U. S. protests, 545-546, 547-549, 551-552, 556-558, 567-568
- France, reported desire for, 544, 561-562, 563, 568, 588, 589
- Great Britain, proposal, 579-583
- United States: U. S. efforts, 546, 549, 551-552, 557-558, 561, 567-571, 573-574, 575-576, 577, 582, 584-585, 586-588, 589, 590-597; agreement with Reparation Commission for, 598-600
- Beneficial ownership, Standard Oil Co. claim: Allegation, 542-544, 548, 554-557, 559-560, 561, 565, 566, 573, 575, 588, 591; decision, discussion of method and agency for, 558, 560-561, 562, 563-565, 574, 575, 576-578, 580, 581, 585, 586-587, 589, 590, 591-592, 593, 594-595, 596-597; determination, agreement between United States and Reparation Commission for, 599-600
- Imperator* and other ships, retaliatory detention by United States, 549-550, 553; British protests, 550-551, 569, 571-573, 578; negotiations for release, 550-554, 558, 560, 561-563, 566, 568, 569, 570, 571, 573; release, 575, 578-579; British claims, 647, 648-649
- Wilson-Lloyd George agreement, citation, 548, 549, 552, 555, 557, 565, 577-578
- Soviet representative, demand for privileges accorded U. S. commission, 259-260, 262
- Treaty of peace with Honduras, 878-879
- Troops. *See under* Rhineland, *supra*.
- U. S. Commission: Curtailment of privileges, 259-260, 262; elevation to High Commission, question of, 261-262; German attitude toward, 260-261
- U. S. consular functions, retention by Spanish consuls, 259*n*
- Great Britain (*see also* Egypt; Reparations; and *under* Germany: Rhineland, occupation by Allied and Associated Powers and Ships, tank):

Great Britain—Continued.

- Anglo-Japanese Alliance, proposed renewal, 679-680, 682-684, 685-686; Chinese protest, 684-685; U. S. suggestions, 680-682
- Cablegrams, denials of alleged interference, 699-704
- Cables, employed by Western Union Telegraph Co., U. S. measures to prevent landing of cables in United States, 686-689, 691-693, 694-698; British cooperation, 690-691, 692, 693, 697-698
- Claims against Haiti, 828-829, 841
- Courts, U. S. consular, jurisdiction in Palestine, 675-678
- Electrical Communications, International Conference on, 687, 688, 690, 699-701
- Imperator*, U. S. detention of. *See under* Germany: Ships, tank.
- Oil concessions in Mesopotamia and Palestine:
 - Concessions, 660-662
 - Equality of treatment for U. S. citizens in mandates, U. S. views, 649-655, 658-659, 668-674; British position, 663-667
 - San Remo agreement: Text, 655-658; U. S. representations, 658-659, 667-668, 672-674; British defense, 666-667
 - U. S. concessions, protection of, 650-651, 654, 666
- U. S. goods detained under order in council (*Mar. 11, 1915*):
 - Claims: Protection from third-party claims, 619-620, 625, 626, 645; reciprocal adjustment, discussion, 647, 648-649; waiver, British insistence, 602-606, 609-610, 612-619, 622-623, 627-628, 632
 - Negotiations for release: Expediting, U. S. endeavors, 630, 633-638; *Stigstad* case, precedent, 623, 624-627, 631, 637; treatment similar to Allied Powers, U. S. desire, 607, 608-609, 610; U. S. proposals, 602, 608, 611-612, 616-617, 629-630, 631-632
 - Postal packets, release, 628-629
 - Release: Conditional, 617-623, 632-634, 637, 639; municipal law, application, 639-645; Prize Court decision, 641-645
 - Status, 601-602, 606-608, 609, 631-632, 646-648
 - Validity of order, 615, 616-617, 645-646

Greece:

King Constantine: Recall to throne, 705-710; regency, 705-707; plebiscite, 705, 708-709; U. S. policy, 707, 709-710

Loan from United States, 710

Treaty of commerce and navigation with United States (1837): Denunciation and re-denunciation, 710-715; modification, proposed treaty, 715-717

Guatemala:

Base for revolutionary activities against Honduras, report, 866-867, 872

Cabrera Government, overthrow:

Cabrera: Agitation against, 718-720, 723-725; impeachment, 724, 730, 735, 737, 738, 740, 741-742; insanity charge, 736, 740, 741-742, 745; resignation, 737, 745, 747-749; safety, assurances of, 746, 747-748, 740-750, 752-753

Diplomatic corps, good offices and mediation, 724, 725-726, 726-727, 729-730, 731, 732, 733, 734, 737-738, 744, 745-746, 747-748, 750

Hostilities, 743-744, 745

Unionist Party, program, 718, 722, 738, 739, 745-746

U. S. policy: Conciliation program, 722-723, 726, 727-731, 732-739; good offices, 744, 745, 746, 750-751; protection of life and property, 719-721, 732, 733, 740, 743, 744; warnings against violence, 720-721, 723

Enemy property, treatment, 755-758

Herrera Government: Formation and legality, 741-742, 745-746, 749, 750-752; popular election, 752, 755; recognition, 742, 745, 746, 749, 750, 751, 753-755

Guayaquil & Quito Railway Co. *See under Ecuador.*

Haiti:

Bank: Charter modification and transfer, 763, 764-765, 769-770, 776-777, 782, 795, 796, 797, 799, 803-804, 816-826; contract of *retrait*, 763, 764-765, 766-767, 768, 769, 770, 776, 777, 781, 782, 783, 786-788, 794, 799, 819, 824, 825, 826-827

Boundary dispute with Dominican Republic, submission to papal arbitration, 113, 131

Budget, suspension of consideration, 765-766, 767-768, 769, 777, 822, 825, 847

Haiti—Continued.

Claims Commission under protocol of Oct. 3, 1919:

Agreement on personnel and powers for consideration of British claims, 828-829, 841; French claims, 827-828, 829-836, 841

Appointment, discussion, 838

Exclusion of items from review, 827-828, 833-834, 835, 836, 845, 846, 847, 849

Loan to pay awards. *See* Loan flotation, *infra*.

Debts, external and internal (*see also* Loan flotation, *infra*), service of: French representations regarding payment, 834-835, 837, 842-843; U. S. replies, 836, 837-838, 843-844; U. S. arrangements for payment, 785, 838-842, 843-844, 845

Enemy property, legislation affecting, 776, 782, 790, 799, 800, 824

Financial Adviser: Call to Washington, 846-847; report, 762-767

Gold importation and legal tender. *See* Bank: Contract of *retrait*, *supra*.

Land laws, 763, 770, 772-773, 776, 778-779, 782, 783, 789-790, 799, 800, 811, 824, 825-826

Loan flotation, negotiations, 786, 838, 839, 841, 844, 845-853

Legislation, agreement of Aug. 24, 1918, for submittal to United States:

Haitian nonobservance, controversy over, 760-762, 770, 772-773, 774, 775, 776-777, 778-779, 781-782, 782-783, 784-786, 789-796, 797-799, 801, 802-803, 804-805, 808, 810-813, 824-825, 825-826

Haitian officials: Dismissal, alleged threat, 768, 769, 770, 771, 772; salaries, U. S. suspension and restoration, 770-771, 771-772, 773-774, 774-777, 780-781, 784, 788, 789, 798-799, 800, 801-802, 803, 804, 805, 808, 810-812

Modus operandi for observance, 762, 803, 806-808, 813-815

Oil concessions, 665

Provost Court trials, 815-816

Receivership, customs, supervision by Bureau of Insular Affairs, 808-809

Treaty of 1915 with United States:

Agreement of Aug. 24, 1918, regarding legislation. *See* Legislation, *supra*.

Protocol of Oct. 3, 1919, regarding claims. *See* Claims Commission, *supra*.

Haiti—Continued.

- Treaty with France regarding claims (1913), cited, 827-828, 829-836
- U. S. military representative: Appointment, 796-799; report, 800-806
- U. S. occupation: Haitian complaints, 767-768, 771, 778-779, 780-781, 783-796; U. S. replies, 769-770, 774-776, 782-783
- Hay Declaration, 684
- Honduras:
- Boundary dispute with Nicaragua, 856, 857-858
 - Enemy property, treatment, 878-879
 - Financial Adviser: Appointment, decision, 872; choice of Arthur N. Young, 873-874; reform of budget, negotiations, 869, 870, 875-877
 - López Gutiérrez, Rafael, inauguration as President, 854, 859
 - Revolution of *September 24-25*, 871, 876
 - Revolutionary activities directed from—
 - Guatemala, report, 866-867, 872
 - Nicaragua:
 - Political exiles, Nicaraguan proposal for amnesty, 864, 866
 - Sympathy of Nicaraguan Government: Allegations and reports, 854-855, 857, 858, 859-860, 861, 862, 865, 866; denials, 855-856, 857, 858, 862, 866; U. S. representations, 854-855, 856, 857, 858, 863, 865, 866, 867-868
 - Troops on border: Honduran, suggested movement, 856, 857, 860, 861, 862, 877; joint contingent, proposal, 868-869
 - U. S. marines, proposed investigation, 856, 858, 860-861, 861-862
 - Salvador, report, 859, 863-864, 867-868, 869-870, 871-872, 877
 - United States, 863, 866-867
 - Treaty of peace with Germany, 878-879
 - Hungary: Reparations, 407, 411, 413; U. S. Commission, question of elevation to High Commission, 261-262
 - Imperator, retaliatory detention by United States. *See under Germany: Ships, tank.*
 - Ishii, Kikujiro, notes exchanged with Lansing, references to, 680-681, 684
 - Italy. *See Ecuador: Loans: Italian Government project and Reparations.*

- Japan, proposed renewal of Anglo-Japanese Alliance, 679-680, 682-684, 685-686; Chinese protest, 684-685; U. S. suggestions, 680-682
- Jurists, international committee of, U. S. unofficial representation, 348, 353-360
- Knox Treaty, cited, 681
- Lansing-Ishii notes, references to, 680-681, 684
- Latvia, U. S. refusal to offer advice on peace with Russia, 254
- Lloyd George - Clemenceau - Wilson agreement on apportionment of reparations, 396, 397-398
- Loans (*see also under Cuba; Dominican Republic; and Ecuador*): Haitian loan negotiations, 786, 838, 839, 841, 844, 845-853; U. S. loan to Greece, 710
- Mandates, U. S. views on rights and duties of mandatory powers, 649-655, 658-659, 667-674; British position, 663-667
- McGivney and Rokeby Construction Co. contract. *See under Cuba.*
- Mercantile Bank of the Americas. *See under Ecuador: Loans.*
- Mesopotamia, oil concessions. *See under Great Britain.*
- Moratorium, bank, in Cuba, 44-46, 47, 49, 50, 55, 81-82
- Netherlands, question of delivery of ships under construction in Germany, 360-364
- Nicaragua, relations with Honduras: Base for revolutionary activities against Honduras. *See under Honduras.*
- Boundary dispute, 856, 857-858
- Norway, interest in Finnish-Russian boundary, 254, 255
- Oil exploitation:
- Ecuadoran restrictive measures, 179, 213-215
 - Ethiopia. *See Ethiopia: Anglo-American Oil Co.*
 - Mesopotamia and Palestine. *See under Great Britain.*
- Oil tankers. *See Germany: Ships, tank.*
- Palestine:
- Consular courts, jurisdiction, 675-678
 - Oil concessions. *See under Great Britain.*
- Peru, purchase of former German ships by United States, 539-542

VOLUMES I AND III ARE INDEXED SEPARATELY

Petroleum. *See* Oil.

Platt Amendment, basis for sanitation work in Cuba, 84, 86, 87, 93, 95, 96, 100-101

Poland, peace with Russia: Conclusion, 256; U. S. refusal to offer advice, 254

Railways. *See under* Ecuador.

Rathbone, Albert, Special Adviser on Cuban loan negotiations, 49, 50-51, 52-57

Reparation Commission (*see also* Reparations):

Conference of Ambassadors, relations with, 376-377, 379-380

U. S. unofficial representation: Attendance at sessions, 346-348; change in personnel, 348-349; expenses, arrangements for payment of, 349-353; status, 384-385, 386

Reparations, German:

Amount, determination and reduction of (*see also* Brussels Conference and Geneva Conference, *infra*):

Discussion, 386-387, 390

French attitude, 387, 390-391, 415

German proposals, 398-399, 401-402, 433, 440-441

Reparation Commission, attitude, 387

Spa Conference, discussion and agreement, 387, 391, 407, 415

U. S. attitude, 387-388, 390-391, 428, 438, 440

U. S. participation in reparations, importance in calculations. *See* U. S. participation, *infra*.

War debts, possible connection with, 391

Apportionment among Allied and Associated Powers:

Discussion, 394, 395-397, 402

Lloyd George-Clemenceau-Wilson agreement, 396, 397-398

Spa agreement, 400-401, 406-411

U. S. participation. *See* U. S. participation, *infra*.

Brussels conference of technical experts: Arrangements, 441, 442-443, 443-444; U. S. nonrepresentation, 443, 444-445

Coal deliveries:

Crediting against reparations, arrangements, 359, 370, 371, 374, 382-383, 385, 410, 426, 429, 430, 434

French ultimatum, 291, 295

Spa agreement. *See under* Spa conference, *infra*.

Reparations, German—Continued.

Concessions, German, in certain countries:

Disposal, views of Reparation Commission, 378, 381, 384; United States, 380, 381-382, 384

Reparation Commission demand for list from Germany, 377-378, 381, 384; effective date of list, 379, 380-381; exception of interests in China, discussion, 379, 380, 381, 384; U. S. attitude, 379, 380, 384

Reparation Commission request for lists of interests desired by Allies, 378; U. S. attitude, 377, 379, 380, 381-382

Conferences (*see also* Brussels Conference, *supra*, and Geneva Conference, *infra*): Future conferences, proposals, 441; German cooperation, 437, 438-439

Drugs: Crediting against reparations, arrangements, 370, 373, 374, 382-383, 385, 434; U. S. participation in distribution, 485-486, 487-488, 489, 491-492, 499, 500

Dyestuffs, German:

Allied dye experts: Meetings, 445-446, 450, 452-453; U. S. representation, 446, 448, 451, 453, 471, 488, 489, 506

Deliveries under Versailles Treaty:

Allied allotment, 466, 494

Allied options, proposed anticipation, 446, 447-448, 449-450, 452, 455, 457, 467, 472, 474, 475, 477, 478

Crediting against reparations, arrangements, 359, 370, 371, 373, 374, 382-383, 385, 410, 415, 434, 453, 456, 457, 458, 459, 460, 464-465, 467, 471, 481, 483, 484, 486-487, 488, 489-490, 491, 492, 496, 500, 501

Distribution: Allied agreement of *Sept. 15, 1919*, 452-453, 454-455, 456-457, 462-463, 466, 468; bases, discussion, 469, 471, 472-476, 477, 478, 481, 482, 483, 487, 491

Reexportation, proposal for agreement against, 479-480, 481-482, 483, 484-485, 487-489, 493

U. S. allotment, negotiations for, 345, 415, 447-448, 452, 455, 456, 457, 459-460, 461-462, 465, 466, 467, 469, 470-471, 476, 477, 478, 482, 486, 491, 493-498, 499-500, 501-506

Reparations, German—Continued.

Dyestuffs, German—Continued.

Importation into United States:

German agencies, U. S. desire not to utilize, 447, 448-449, 451-452, 455, 456, 457, 464, 467; Reparation Commission, proposed purchases through, 447, 449, 455, 457, 462, 464, 467; Textile Alliance, representation of United States in negotiations, 455, 457, 461-462, 465, 466, 467, 469, 470-471, 476, 486, 493-498, 499-500, 501-506; U. S. licensing policy, 447, 452, 455, 456, 457, 458, 460, 462, 463-464

Manufacturing establishments, Allied control of, 454, 458, 464, 468

Needs of Allied Powers, 445-446, 449, 450, 468-469; United States, 447, 449, 450, 451, 452, 455, 456, 463, 484, 507

Geneva conference of Allied ministers, proposal and postponement, 436-440, 441

Inter-Allied percentages agreement.

See under Spa Conference, *infra*.

Payment of 20 milliard marks:

Crediting against of: Armies of occupation costs, 359, 370-371, 382-383; deliveries under annexes to part VIII of Versailles Treaty, 359-360, 370, 371, 373, 374, 382-383, 385, 429, 434; food and raw material for Germany, 359, 367, 370-371, 373, 375-376, 382-383, 384-386

German ability to pay, question of, 373, 431

German payments, reports on, 434

Reparation Commission. *See* Reparation Commission.

Securities, neutral, Reparation Commission demand for use by Germany to pay for food and raw materials, 366-368, 372, 373, 374; British attitude, 353-354; discussion with Germany, proposed, 372-373; German reply, 372, 374; U. S. objection, 353-360, 365-366, 368-369, 383, 386; U. S. representative on Reparation Commission, views, 373-374, 375-376, 385-386

Ships, German (*see also under* Germany):

Beneficial ownership (*see also under* Germany: Ships, tank), U. S. attitude toward claims of, 517-518, 520-522, 523, 524-525, 530

Reparations, German—Continued.

Ships, German—Continued.

Crediting against reparations, 359, 370, 371, 373, 374, 377, 382-383, 385, 411-413, 423, 434

Delivery of uncompleted ships under construction for the Netherlands, demand, 360-364

Sale, proposed, by Great Britain, 419, 420-421, 422-423, 431

Valuation for reparation purposes:

Agreement of Spa Conference regarding, 400-401, 411-413, 431; Reparation Commission attitude, 401, 420-421, 431; U. S. attitude, 401, 415-416, 419, 422, 423, 425, 428-429, 430

Wilson-Lloyd George agreement on allotments: British attitude, 531; French acceptance, 527, 580; Italian attitude, 527; text, 512-514; U. S. attitude, 391, 401, 424, 429, 509, 510, 511, 516, 518, 519-520, 521, 523, 524, 525, 532-534; U. S. citation in proposed allotment of German tankers, 548, 549, 552, 555, 557, 565, 577-578; U. S. recommendations for acceptance by Brazil, Cuba, and Uruguay, 508, 510, 511-512, 514-515, 520, 524, 525-528, 535-538, 539

Spa Conference:

Coal agreement: Boulogne protocol, 417-419, 429-430; proposed discussion at Geneva Conference, 436-437, 439; Reparation Commission approval, 398; Silesian coal committee, U. S. objection to appointment of American chairman, 420, 423-424; summary and negotiations, 401, 403-406; U. S. attitude, 426-427, 429

German import and export regulations, proposed reference to, 287-288, 289

Inter-Allied percentages agreement: British attitude, 432, 440; Reparation Commission resolution, 432-433, 435, 439; text, 406-414; U. S. comments and proposed protest, 332, 339, 345, 421-422, 424-425, 428-429, 431-432, 436, 438, 439

Postponement, question of, 393

Preliminary conferences, 387, 394, 401, 402

Reparation Commission attendance, 395

Reparation payments:

Apportionment among Allied and Associated Powers, agreement, 400-401, 406-411

Reparations, German—Continued.

Spa Conference—Continued.

Reparation payments—Continued.

Determination and reduction of amount: Discussion and agreement, 387, 391, 407, 415; German proposal, discussion, 398-399, 401-402

Ships, agreement on valuation, 400-401, 411-413, 431

U. S. unofficial representation, 393, 395, 397-402

U. S. participation, question of:

Alien Property Custodian funds, retention, 340, 388, 390, 391, 392, 417, 430-431, 434

Army of occupation costs: Alien Property Custodian funds, U. S. refusal to use for, 340, 392, 417, 430-431, 434; collection from Germany by Reparation Commission, proposal, 331-333, 339, 340, 344, 345, 406, 417, 423, 435; ex-German ships, U. S. refusal to use for, 417, 430-431, 434; German liability, U. S. views, 333-334, 338-340, 343-345, 392, 405, 416-417, 419, 427, 428, 430-431, 434; reduction, consideration of, 311-312, 319, 340, 341-342, 389, 392, 406, 414, 416, 417, 427, 434

Claims, U. S.: Alien Property Custodian funds and ex-German ships, U. S. attitude on application toward, 390, 391; request for submittal, 388, 389-390; U. S. response, 391-392, 392-393

Ex-German ships, retention, 388, 391, 392, 417, 430-431, 434, 529, 531

Rhineland High Commission. *See under* Germany: Rhineland.

Root-Takahira agreement, 684

Russia:

Finland, relations with. *See* Finland.

Latvia, relations with, 254

Poland, conclusion of peace with, 254, 256

Soviet representative in Germany, privileges, 259-260, 262

Salvador: Base for revolutionary activities against Honduras, report, 859, 863-864, 867-868, 869-870, 871-872, 877; financial situation, 786-787

San Remo Conference, 326, 437

San Remo oil agreement: Text, 655-658; U. S. representations, 658-659, 667-668, 672-674; British defense, 666-667

Securities, neutral, consideration in connection with German reparations. *See under* Reparations.

Sèvres (tripartite) agreement, 674-675

Ships, former German. *See under* Germany and Reparations.

Spa Conference. *See under* Reparations.

Speyer loan to Cuba, 84, 88, 90

Standard Oil Co., interest in German tankers. *See* Germany: Ships, tank.

Stigstad case, 623, 624-627, 631, 637

Telegrams, British denials of alleged interference, 699-704

Textile Alliance, Inc. *See under* Germany: Dyestuffs and Reparations: Dyestuffs: Importation into United States.

Treaties, conventions, etc.:

Anglo-Japanese Alliance, proposed renewal, 679-680, 682-684, 685-686; Chinese protest, 684-685; U. S. suggestions, 680-682

Arbitration: Bryan Treaty, cited, 681; Hague conventions, cited, 104-105; Knox Treaty, cited, 681

Boulogne protocol on distribution of reparation coal, 417-419, 429-430

Bryan Treaty, cited, 681

Claims, pecuniary, Cuban nonadherence to convention for arbitration of, 93-94, 97-98

Claims protocol between France and Haiti (1913), cited, 827-828, 829-836

Coal agreement. *See under* Reparations: Spa Conference.

Hague conventions on arbitration, 104-105

Inter-Allied percentages agreement. *See under* Reparations: Spa Conference.

Knox Treaty, cited, 681

Peace treaty between Finland and Russia, 256-257

San Remo oil agreement: Text, 655-658; U. S. representations, 658-659, 667-668, 672-674; British defense, 666-667

Sèvres (tripartite) agreement, 674-675

U. S.-Cuba (1903), basis for sanitation work, 84, 86, 87, 93, 95, 96, 100-101

U. S.-Dominican Republic (1907), cited, 133, 134-135, 136, 139, 140, 143, 145, 152, 153, 154

U. S.-Ethiopia, treaty of commerce and navigation (1914), negotiation and conclusion, 229-244

Treaties, conventions, etc.—Continued.

U. S.—Greece, treaty of commerce and navigation (1837): Denunciation and re-denunciation, 710-715; modification, proposed treaty, 715-717

U. S.—Haiti (1915). *See under* Haiti.

Versailles Treaty (*see also* Germany and Reparations), consideration by Honduras, 878-879

Wilson-Lloyd George agreement on reparation allotments of ships. *See under* Reparations: Ships.

Uruguay, claim to former German ships, 535-536, 536-537

Versailles Treaty (*see also* Germany and Reparations), consideration by Honduras, 878-879

War debts due United States: Negotiations with Great Britain, 393; possible connection with reparations, 391

Western Telegraph Co., 686-687

Western Union Telegraph Co.:

Concession in Cuba, 60-61, 67-68, 69

U. S. measures to prevent landing of cables in United States, 686-689, 691-693, 694-698; British co-operation, 690-691, 692, 693, 697-698

Wilson-Lloyd George agreement on reparation allotments of ships. *See under* Reparations: Ships.

VOLUMES I AND III ARE INDEXED SEPARATELY



